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Vol. IV

TRANSCRIPT OF RECORD

(Pages 2335 to 3008)

Supreme Court of the United States

OCTOBER TERM, 1946

No. 343

STATE OF NEW YORK, STATE OF DELAWARE, STATE OF INDIANA, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, STATE OF ALABAMA, ET AL.

No. 344

STATE OF MAINE, STATE OF NEW HAMPSHIRE, STATE OF VERMONT, ET AL., APPELLANTS,

vs.

THE UNITED STATES, OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

No. 345

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, BEAVER, MEADE AND ENGLEWOOD RAILROAD COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, ET AL., APPELLANTS,

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APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK

FILED AUGUST 1, 1946.

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C. A. MITCHELL was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Will you state your full name for the record, please, Mr. Mitchell.

A. C. A. Mitchell.

Q. Your place of residence?

A. Memphis, Tennessee.

Q. What is your occupation?

A. I am Commissioner of the Memphis Freight Bureau and have been since December 15, 1941. Prior to that time for approximately 18 years I was assistant general manager of the New Orleans Joint Traffic Bureau. Prior to that for about four years I was assistant commissioner of the Memphis Freight Bureau, from 1920 to 1924.

[fol. 1323] Q. So you have had many years of experience in traffic work.

A. I have, yes, sir.

Q. Have you prepared an exhibit for presentation in this case?

A. I have.

Mr. Norman: We ask that this be marked for identification as the next exhibit, if the Examiner please.

Exam. Carter: It may be marked for identification as Exhibit No. 75.

(Exhibit No. 75, Witness Mitchell, marked for identification.)

By Mr. Norman:

Q. Of how many pages does this exhibit consist, Mr. Mitchell?

A. It consists of 8 pages.

Q. Please proceed and briefly describe what this exhibit shows.

A. On pages 1 to 3 inclusive are shown representative destinations grouped by states in the several states in Official territory with the distances from Memphis and the class rates actually in effect today from Memphis to those points under the column headed "13494 1st", except that it doe not include the Ex Parte 148 increases which are not

included in any of my figures. Opposite that in the following column under the heading "15879 1st" we show what the first class rate would be from Memphis if we had the [fol. 1324] Official scale. Then in the last column headed with a percentage sign we show the per cent that the present first class rate from Memphis is of the 15879 first class rate with the average for each state.

Now, beginning on sheet 4 and running through to sheet 8 inclusive, the pages are headed "Comparison of rates on macaroni, noodles and spaghetti, LCL". I would like to explain—we used this more or less as representative—that there is a fairly large manufacturer of these commodities at Memphis and a wide distribution of them from Memphis. It is one of few commodities, I may say, that moves in both Official and Southern territories on the straight classification rather than on exceptions in less than carload quantities. In the Official Classification territory these commodities less than carload are rated fourth class, which is equal to 50 per cent of the Official territory first class rates and in the Southern territory the rating is 50 per cent in the straight classification. It also so happens that there is an item in the Southern exceptions giving spaghetti in quantities more than 12,000 pounds, class 50. I do not know why that is in there, since the straight classification provides class 50.

Q. Just a minute, please.

A. Yes.

Q. What is the name of this manufacturer at Memphis? [fol. 1325] A. Robilio & Cuneo.

Q. Are they members of the Memphis Freight Bureau?

A. Yes.

Q. And do you furnish them traffic service?

A. Yes, sir.

Q. Do you know where their competition is located?

A. Yes, sir. Their principal competition is from Chicago and St. Louis.

Q. Yes.

A. There is also a competitor at Louisville, but in the territory affected their principal competition is from Chicago and St. Louis; and I would say that Chicago manufactures and ships more of these commodities than all the other competitors combined. So it is, after all, the biggest competitor. I want to explain this: this firm is very much interested in the rates here involved and in the difference

in level of what they call their distributing rates from Memphis compared to Official territory levels. Mr. Cuneo of that firm handled all of their traffic matters in the prior stages of this case and had indicated a very deep interest in this matter. Mr. Cuneo is now in the Army and it was impossible to have a witness directly from that firm because Mr. Robilio does not know anything about rates and says it would be impossible for him to get away. That is why I am putting in the figures for them.

[fol. 1326] Q. Proceed with your explanation of your exhibit, please, Mr. Mitchell.

A. To go on with my explanation of Exhibit No. 75, on page 4 we have selected as destinations, points located on the borderline between Official and Southern territories. Generally speaking, they are Ohio River crossings. Also, Pittsburgh, Pennsylvania, and Wheeling, West Virginia. Now, there we show the distances from Memphis, Chicago and St. Louis, and under column A the first class rates from the three points. Then under column B we show the actual going rates on the commodity macaroni and so forth, less than carload, which is class 50 in the south and fourth class in the north. Under column C we show the actual 15879 scale on the same basis.

You will notice under column C, from Memphis—I just want to take one illustration, Evansville, Indiana. The distance from Memphis to Evansville is 301 miles. The first class rate is $1.36. Our rate on spaghetti is 68 cents. Now, if we had the 15879 scale, our rate from Memphis would be 49 cents. On the other hand, the distance from Chicago to Evansville is 284 miles, slightly less than the distance from Memphis. The first class rate is 96 cents. The class 50 or fourth class rate is 48 cents, applicable on macaroni and so forth. Under column C we show the 15879 scale fourth class rate as being exactly 48 cents. In other [fol. 1327] words, Chicago has the 15879 scale. We show the same figures from St. Louis. I have selected Evansville there to use as an illustration because the distance from Memphis and Chicago is nearly the same. Relatively the showing throughout the exhibit is the same as I have explained as to Evansville.

Q. You say the distances are relatively the same.

A. Yes.

Q. Suppose you just give the present rates that are being paid from Memphis and from Chicago.

Mr. McCollester: It all appears on the exhibit.

The Witness: 68 cents from Memphis and 48 cents from Chicago.

Mr. Norman: All right.

By Mr. Norman:

Q. Proceed.

A. And only 17 miles difference in distance.

Mr. Bee: Just as a matter of explanation, I notice Henderson, Kentucky, is the only point where the actual rate and the class rate are not the same from Chicago and St. Louis.

By Mr. Bee:

Q. Could you explain that?

A. Henderson is on the south side of the Ohio River only 12 miles from Evansville. I have a notion that the river crossing there may have influenced the present rate of 50 cents because the scale rate would be 48 cents to Henderson. I do not know why that is. There is one other point—[fol. 1528] well, no. Henderson is different coming from St. Louis, too.

Q. Yes.

A. But no other points. I just do not know why that is.

Mr. Bee: All right.

By Mr. Norman:

Q. Proceed, Mr. Mitchell.

A. On page 5 we have shown a number of stations in south central Illinois, generally south of the St. Louis territory, with the distances from Memphis and from Chicago, the first class rates, the going rates on macaroni and the 15879 scale which is shown under column C from Memphis, what we would have to these points if we had the scale. From Chicago, I do not know why, but there is a line of commodity rates to those points shown under column D, but except to St. Louis, you will notice those commodity rates are exactly the same as the class rates shown under column B from Chicago. We did not include St. Louis as an origin on this exhibit because these points are so close to St. Louis there would be no basis for comparison there. However, the shorter distances are more nearly comparable

with the distances from Memphis. I just want to call attention to one point. Take Metropolis, Illinois. That point is only 179 miles from Memphis, with a rate of 53 cents. It is 355 miles from Chicago, with a rate of 52 cents.

Mr. Byars: Do you say that those column D rates from Chicago to all points except St. Louis are actually the fourth [fol. 1329] class rates under the 15879 scale?

Mr. Norman: It is shown on the exhibit.

Mr. Byars: No. It does not show that.

The Witness: I understand they are. However, this exhibit does not show that particular information.

Mr. Byars: Well, I asked you if you said that. I thought you did say that.

The Witness: No. I said—you will notice there is no column C from Chicago.

Mr. Byars: I notice that.

The Witness: On this exhibit.

Mr. Byars: Yes.

The Witness: That was a mistake. These exhibits were made up at my office since I left there. That is, they were typed, and so forth. I do not know whether that was an error that they were left off, or not. I intended to show the 15879 scale in all cases.

Mr. Byars: On the exhibit showing the 15879 scale from Memphis, the column D is explained as commodity rates applying from Chicago to these points other than St. Louis. I think you stated that they are published as commodity rates, but they are in fact the same as the——

The Witness: Class rates.

Mr. Byars: —class rates?

The Witness: That is right. Under column B, except [fol. 1330] to St. Louis——

Mr. Byars: Yes.

The Witness: —where the commodity rate is different from the class rate, you will notice it is both higher and lower, depending upon the quantity.

Mr. McCollester: In that connection let me ask just one question as a matter of explanation:

By Mr. McCollester:

Q. I notice you show a minimum weight there, but are those all less than carload rates?

A. They are all less than carload rates. That minimum weight just applies in connection with rates to St. Louis. There is a commodity rate to St. Louis of 51 cents from Chicago on quantities less than 10,000 pounds, and 42 cents on quantities 10,000 pounds or more. They are just volume rates, volume less than carload rates.

Q. Are there carload rates besides?

A. You mean, commodity rates?

Q. Or class rates.

A. Not that I know of—oh, certainly there are some class rates, but we did not go into it because commodities are not shipped from Memphis in carloads into this territory. However, I might say that the relative comparison would be the same. The class would probably be sixth or some other class, but the relative difference in rates from Chicago or St. Louis to these destinations versus Memphis would [fol. 1331] be reflected right here in the first class rates.

Exam. Carter: Proceed.

The Witness: Before I go any further, I want to say that the heading of all these pages 4 to 8 just shows a comparison of rates on macaroni, noodles and spaghetti, less than carload, and fails to mention the fact that those pages also carry the distances and the first class rates. Now, page 6 shows equi-distant rates from Memphis, Chicago and St. Louis to destinations north of the Ohio River in all instances. In other words, in the first group there we took Memphis to Indianapolis, 443 miles. Against that we compared Chicago to Pittsburgh, which is 454 miles,——

Exam. Carter: That is all shown on the exhibit, Mr. Mitchell.

The Witness: —and St. Louis to Portsmouth——

Exam. Carter: Just a minute, please, Mr. Mitchell.

The Witness: Yes.

Exam. Carter: Unless you have some particular thing you want to point out, all of that information is shown on the exhibit.

The Witness: This exhibit differs from the others in this respect——

Mr. Norman: This page, you mean?

The Witness: Yes. This page. Under column D we have shown, taking Memphis as 100 per cent, the percentage re- [fol. 1332] lation of the distances from Chicago and St. Louis to these other points to the distance from Memphis to the points shown. In column E, taking Memphis again

as 100 per cent as to the rest, we show the percentage of the rates from Chicago and St. Louis in that column. Page 7 shows four points in eastern Kentucky equi-distant from Memphis and from Chicago. These points are south of the river in Southern territory. We show there the distances, the first class rate and the going rates from Memphis under column B on macaroni and so forth and under column C what we would have under the Docket 15879 scale, and the same information from Chicago.

I just want to call attention to the fact that the Chicago rates as shown under column B are not on the scale to these points in the south because they are not made that way. They are made on the 13494 K-2 scale plus arbitraries. But you will notice that they are much nearer to the 15879 scale than are the rates from Memphis. In other words, they are relatively lower than our rates for the same distances to points south of the Ohio River. Similar information is shown on page 8, except the points are not equi-distance. We just have some additional points shown on there and their actual distances. Of course, Mr. Examiner, this would be representative of any other commodity moving on the same class rate and relatively the showing would be the [fol. 1333] same on any other commodity.

Mr. Walker: Where the rates are the same; that is, where they are rated the same in both territories.

The Witness: Yes. That is correct.

By Mr. Norman:

Q. Was this exhibit prepared by you or under your direction?

A. It was prepared under my direction and supervision.

Q. Is it correct to the best of your knowledge and belief?

A. Yes, sir.

Mr. Norman: We offer in evidence Exhibit No. 75, if the examiner please.

Exam. Carter: Is there any objection to the receipt in evidence of Exhibit No. 75? (No response.) It is received.

(Exhibit No. 75, Witness Mitchell, received in evidence.)

By Mr. Norman:

Q. Have you anything further to add to your testimony, Mr. Mitchell?

A. No.

Mr. Norman: That is all.

Exam. Carter: Is there any cross examination?

Mr. Byars: I would like to ask one or two questions on direct on this page No. 7, Mr. Mitchell.

By Mr. Byars:

Q. Are the column C rates shown there from Memphis the actual going rates applying?

A. Not C. Column B.

[fol. 1334] Q. Column C, I am asking you about.

A. Column C is explained on there as column 50 under the Docket 15879 scale.

Q. I am still asking you if that is the rate that applies from Memphis to the points named in this exhibit.

A. It is not. Column B shows the present rates.

Q. What is the column 50? Is that to show what it would be if you had——

A. If we had the 15879 scale.

Q. All right.

A. That is, the Official territory scale.

Mr. Byars: All right.

Exam. Carter: Is there any cross examination?

Mr. Walker: I have one or two questions.

Exam. Carter: Mr. Walker.

Cross-examination.

By Mr. Walker:

Q. Mr. Mitchell, you have called specific attention to the fact that your rate, the less than carload rate, on macaroni from Memphis to Evansville, is higher than a like rate from Chicago to Evansville.

A. Yes.

Q. Just what do you want done with that situation?

A. We want it equalized.

Q. What do you mean, you want it equalized?

A. We want the same rate, the same level of rates.

[fol. 1335] Q. From Memphis to Evansville?

A. Yes.

Q. As applies in Official territory?

A. Yes.

Mr. Walker: That is all.

Exam. Carter: Mr. McCollester.

By Mr. McCollester:

Q. Does this firm of Robilio & Cuneo ship to all points shown on your exhibit?

A. No, sir. They distribute these commodities widely, but they have been unable to get into the territory north of the Ohio River and generally speaking along the Ohio River, because of the very stiff competition from Chicago and St. Louis. They do distribute through Southern territory, including these points in Kentucky that I mentioned. Then there is some distribution to Ohio River points, of course, but it is not what it would be—at least they think it is not what it would be if they had equal rates with their competitors north of the river.

Q. Do your competitors ship in carload lots?

A. No, sir. In less than carload lots.

Q. Are you sure about that?

A. Well, that is my information.

Q. How much do you know about this Chicago concern?

A. Chicago may also ship in carload lots——

Q. Yes.

[fol. 1336] A. —but certainly my shipper would not expect to get equalization with Chicago's carload rates.

Q. I am asking you what you know.

A. We want equal rates for both carload and less than carload traffic.

Q. Is it not a fact, or do you know, that this largest concern in the country located in Chicago ships in carload lots?

A. I did not say the largest concern in the country was located in Chicago.

Q. I thought you did.

A. There may be half a dozen concerns in Chicago.

Q. Are there? I want to know the fact. I do not care what there may be. I just want to know the fact. What is the fact?

A. Here is the fact as I know it: at Chicago, whether it is one firm or five firms, there is more of this commodity shipped than from any other point that our shipper has met competition from. He has said that Chicago probably ships more than all of the other points combined. Whether it is one firm at Chicago, or ten, I do not know.

Q. And whether it is carload or less than carload, you do not know?

A. They distribute both, as I understand it.

Q. Do you know?

A. (No answer.)

[fol. 1337] Q. Do you know?

A. They say they ship in less than carload quantities. They may also ship in carload quantities.

Q. You do not know but what the competition is carload shipments, do you, that makes the market?

A. No. I do not think it is.

Q. But you do not know?

A. No, not 100 per cent, certainly.

Q. How long has this concern been at Memphis?

A. Many years. I am at somewhat of a disadvantage. I did not ask them about that. I have only been back in Memphis now for about nine months. I just do not remember whether they were located there before when I lived there, possibly back in the 20's, but I should think so. I will tell you why: they are a pretty well established firm manufacturing various commodities under the trade name of Ronco. They are well known around the south. They manufacture some other things along the same line, such as canned ravioli and that sort of thing. Their trade name is pretty well known in our section. I think they must be a pretty old firm.

Q. They have done pretty well, then, have they?

A. They have been restricted to our territory, that is the difficulty, because of competition from other points.

Q. Do you undertake to say that they do not sell at all in Official territory?

[fol. 1338] A. That is my positive advice, that they are unable to get into that territory and they do not even put salesmen up there any more.

Q. There are points in Official territory where they have lower rates in cents per hundred pounds than Chicago, are there not?

A. Well, take Cairo, Illinois, which is on the river. They have a 2-cent lower rate than Chicago has.

Q. Have they never sold in Cairo?

A. I said there was some movement to Ohio River crossings. We have a 2-cent lower rate than Chicago there at Cairo, but our distance is only 166 miles as against Chicago's 365 miles, with only a 2-cent difference in the rate. I think that is the only point where we have an

actually lower rate, and that point is not within Official territory, but on the border.

Q. How about Marion, Illinois? There it appears that Memphis has a rate of 43 cents and Chicago has a rate of 49 cents.

A. I beg your pardon. That 43-cent rate shown from Memphis is the 15879 scale rate.

Q. I am sorry.

A. Our actual rate is 63 and Chicago's rate is 49.

Mr. McCollester: My mistake.

By Mr. McCollester:

Q. You could have shown on here plenty of points, could you not, where in cents per hundred pounds your rates [fol. 1339] into Official territory are lower than the rates from Chicago if you had gone about it?

A. No, sir.

Q. You picked the points where from a distance standpoint——

A. Let me finish that answer.

Q. All right. Go ahead.

A. You cannot pick any point in Official territory when you get north of Cairo, Illinois, where Chicago has not got a lower rate.

Q. How about going into Trunk Line territory?

A. What is that?

Q. How about going into Trunk Line territory?

A. Eastern Trunk Line territory?

Q. Yes.

A. Well, I did not make a comparison there, but I do not believe we have cheaper rates than Chicago has in cents per hundred pounds. Wait a minute, now. Let's take New Jersey and New York. That is Trunk Line territory. Our first class rates are 123.7 per cent of the first class rates from Chicago—I mean, in Official territory, and that would be from Chicago. I will say that our rates are higher in Trunk Line territory in all cases. They are substantially higher than from Chicago. I do not know of any point outside of Cairo, Illinois, that you can find where we have a lower rate in cents per hundred pounds, that is, any point [fol. 1340] on or north of the Ohio River.

Q. Do you know on what terms macaroni and so forth are sold?

A. No, I do not.

Q. You do not know whether the buyer pays the freight, or the seller?

A. I am sorry. I do not know.

Mr. McCollester: That is all.

Exam. Carter: Do you have some cross-examination, Mr. Schwietert?

Mr. Schwietert: Most of the questions I was going to ask have been inquired into. I would just like to ask one further question:

By Mr. Schwietert:

Q. Does this firm have any other plants except the one at Memphis?

A. No.

Q. That is the only plant they have?

A. Yes.

Mr. Schwietert: That is all.

Exam. Carter: Are there any other questions?

Mr. Ford: I would like to ask one or two questions.

Exam. Carter: Mr. Ford.

By Mr. Ford:

Q. Do you know, Mr. Mitchell, that macaroni is also manufactured in substantial quantities in Connecticut?

A. No, but I am pretty sure it is. I doubt if there is any state, or if there is any section, rather, that does not [fol. 1341] have a few manufacturers of macaroni and spaghetti. There is one at New Orleans, Louisiana.

Q. So if the freight rate were the controlling factor in the distribution and these points in Trunk Line territory were much closer to Connecticut, you would not expect to sell in those territories even though you had the advantage of the 15879 scale, would you?

A. I do not think we could distribute that far away. At least, I do not think the firm is that well known, that we would be able to meet competition from the north in that far-away territory; but we want, at least, to have the opportunity to do it. We do not want to have two strikes on us if we attempt to sell there by having a differ-

ence in freight rates against us that we cannot surmount. We want the opportunity, that is all.

Q. Refer, Mr. Mitchell, to the point of Marion, Illinois, that was mentioned, where the rate from Memphis is 14 cents per hundred pounds greater than from Chicago.

A. Yes.

Q. Would that, in your opinion, be a sufficient difference to preclude the possibility of your selling at that point?

A. We could not take any particular point. When you have a whole territory like this in which you are at such a disadvantage, you cannot put a salesman out just at Marion, Illinois, to see if you can overcome that difference [fol. 1342] at Marion. He would not sell enough business to pay his keep. You have to take the territory as a whole. When they cannot distribute into that teritory in sufficient quantities to pay them to put a man in the territory, then they have to pass it up. They might be able to drum up some business in one point here and another point there, but it would not be enough to pay them.

Q. You could not suggest, could you, what would be the highest differential in freight rates that could be absorbed and still sell macaroni in that territory?

A. I would not attempt to state that, but I do not know of any reason why there should be any differential for equal distances.

Q. Well, regardless of the distances.

A. I could not say what amount of difference they could absorb.

Mr. Ford: That is all.

Exam. Carter: Are there any other questions of this witness?

Mr. Grubbs: I would like to ask one or two questions, please, Mr. Examiner.

Exam. Carter: Mr. Grubbs.

By Mr. Grubbs:

Q. As I understand your testimony, Mr. Mitchell, before you came to Memphis, or at least before Mr. Cuneo went into the Army, Mr. Cuneo looked after the rate and [fol. 1343] traffic matters of that concern?

A. That is right.

Q. He had considerable experience, I take it?
A. Yes, but it is impossible to get him into the case.

Mr. Grubbs: Yes. I understand.

By Mr. Grubbs:

Q. Now, can you tell me if you undertook to examine the movement figures of this concern before you came here to testify.
A. No. I discussed it with them, but I did not attempt to examine any of their books or anything like that.
Q. The extent of your knowledge was derived from just an oral discussion?
A. It had to be.
Q. Yes.
A. Mr. Robilio himself was the one I talked to. Mr. Cuneo has already gone to the Army. I could not talk with him. They told me——

Exam. Carter: You have answered the question.
The Witness: All right.
Exam. Carter: Let us go to the next question.
The Witness: Pardon me.

By Mr. Grubbs:

Q. I take it, then, you did not develop specifically the volume of movement made by this concern in the past year or in any past period?
A. I did not get any specific figures. I know they do [fol. 1344] distribute widely and I also know from advice from them that they are unable to distribute into Central Freight Association territory, that is, Official territory, and that is as far as I know.
Q. As I understand it, they are able to distribute, however, all over the south?
A. Yes, but they meet some stiff competition from St. Louis and in Kentucky and Tennessee they also meet competition from Chicago.
Q. But they do widely distribute throughout the south?
A. Yes.

Exam. Carter: Try to make your answers as responsive as possible. If there is any explanation, you may give it after answering the question, but I do not think it is necessary to make all of these long statements.

The Witness: All right.

Exam. Carter: Just confine your answers to the questions.

The Witness: All right.

By Mr. Grubbs:

Q. Does this company distribute into the southwest?

A. They do distribute some into the southwest.

Q. How about the Pacific Coast?

A. No. I do not think they ship that far.

Q. Do you know?

[fol. 1345] A. No. I do not know.

Q. Do you know whether they ship in Western Trunk Line territory?

A. I do not know.

Q. But they do ship all over the south widely?

A. Not necessarily all over the south, but I said about five times that they distribute widely. I cannot name the points.

Q. Can you name any specific point?

A. No, sir.

Q. I take it from what you said that you did not examine figures that would enable you to tell us at this time the rate of growth of this company?

A. No.

Q. In the shipment of these commodities.

A. No.

Q. You told us that they did manufacture other articles?

A. What is that?

Q. You told us that they did manufacture other articles, is that not correct?

A. Yes.

Q. Will you name those articles.

A. I said, along the same line, such as canned ravioli and so forth. I do not know whether it is—I know it is packed in glass. I do not know whether it is shipped beyond Memphis or not. I did not ask about that.

[fol. 1346] Q. Do you know any other articles that they manufacture?

A. I would not attempt to name them, but they would be along this same line.

Q. Are they quite numerous, or not?

A. No. I do not think so. Only three or four articles.

Q. Is this the principal article that they manufacture?

A. Yes. I think they also manufacture some canned spaghetti, but I am not certain about it, because I did not want to go into that.

Exam. Carter: Can you not just answer the question? Just tell those things you know, and those things you do not know about, leave out. If you have some definite knowledge, you may state it.

The Witness: I do not have any more advice than I have already stated on direct. That is all I have, and it is a waste of time for them to ask further questions on it.

Exam. Carter: Proceed, Mr. Grubbs.

By Mr. Grubbs:

Q. Is macaroni, spaghetti and vermicelli the principal commodity or commodities manufactured by this company?

A. Yes, sir.

Q. You do know that?

A. Yes, sir.

Q. You said in your testimony that you ship only to this territory in less than carload lots. Do you ship only in [fol. 1347] less than carload lots to the south?

A. I think so; so far as I know.

Q. You do not know——

A. Their principal distribution is less than carload, and I think it is probably all less than carload.

Q. You are unable to state the precise percentage of less than carload shipments?

Mr. Byars: Would that make any difference? I object to it. He is just testing out the witness' familiarity with the business and just filling up the record for nothing.

Exam. Carter: I think he has a right to test the witness' familiarity with the business.

Mr. Walker: He has already stated all he knew about it.

The Witness: So far as this record shows——

Exam. Carter: That will be sufficient. Proceed, gentlemen.

Mr. Byars: What difference does it make whether a man ships only one carload in a month and all the rest of his business is less than carload?

Mr. Grubbs: The witness testified that he thought there was approximately the same difference in less than carload

rates as there was in carload rates. Now, I want to know what the significance of that statement is.

The Witness: That is because I was asked about carload rates. That was in reply to a question of Mr. McCollester.

[fol. 1348] By Mr. Grubbs:

Q. Have you examined the carload rates——

A. No.

Q. —sufficiently to enable you to answer any question along that line here?

A. No, sir. I said if they moved on class rates, the same relative difference would obtain and I think we only have class rates, either carload or less than carload.

Q. Do you know whether this concern dominates the southern market?

A. It does not.

Q. You know it does not?

A. Yes, sir.

Q. Who does?

A. Well, I do not know. I expect, Louisville, Kentucky.

Exam. Carter: If you do not know, say so, and let it go at that.

By Mr. Grubbs:

Q. Now, Mr. Mitchell, so much for the macaroni manufacturer. You are here, as I understood your testimony, to speak for Memphis as a whole, and not for this concern in particular.

A. That is right.

Q. Is that correct?

A. Yes.

Q. Did you hear the questions that I asked Mr. Thornton?

A. No, I did not.

[fol. 1349] Q. I take it you recognize especially today the importance of the railroads to Memphis, do you not?

A. Oh, yes.

Q. I take it that you want your railroads to be efficient, is that not true?

A. Absolutely.

Q. You want them to be able to be adequate to meet every need today during emergency conditions and in peacetime conditions also, is that not true?

A. We do.

Q. Do you not realize that for them to be so, the railroads must be strong?

A. I think that is correct. We are not asking for anything, Mr. Examiner, that would cripple the southern lines. We ask for equalization. We do not care which way they bring it about.

Q. As I understand you, you do not want anything done in this proceeding which would weaken to any material extent the lines on which you depend for your railroad transportation?

A. That is correct.

Q. Is that right?

A. Yes.

Mr. Grubbs: Thank you, sir.

By Mr. Tanner:

Q. Mr. Mitchell, do I understand you are asking for an equalization of class rates?

[fol. 1350] A. That is right.

Q. Not only just as to macaroni, but also as to class rates generally?

A. That is right.

Mr. Tanner: That is all.

Exam. Carter: Are there any other questions of Mr. Mitchell?

Mr. Zoll: I have one question, Mr. Examiner.

Exam. Carter: Mr. Zoll.

By Mr. Zoll:

Q. Mr. Mitchell, do you know to what extent this concern in Memphis uses motor carriers to distribute their product?

A. I do not.

Q. Is this concern a jobber or an actual manufacturer at Memphis?

A. A manufacturer.

Q. To what extent is this group of commodities typical? At the outset of your testimony you said you had selected them for a certain reason.

A. I said, so far as rate comparisons are concerned, they are typical of any commodity that would move on the same classification basis north and south of the river. ..y ex-

amples as to macaroni will cover cotton piece goods or anything else where you have the same percentage of first class, whether it be 30, 40, 50, or what.

[fol. 1351] Q. Did you state that these commodities were among the few which moved on that basis?

A. No. There are many commodities under exceptions that might move on class 50, but we were told we could not bring into this case commodities that moved on exceptions. Some of them move on fourth class under exceptions.

Mr. Zoll: That is all.

By Mr. McCollester:

Q. Would you tell me again the trade name of the products of this concern.

A. Ronco.

Q. How do you spell it?

A. R-o-n-c-o.

Q. All of their products are sold under that trade name?

A. So far as I know, yes.

Q. Is flour the principal raw material?

A. Oh, yes. Certainly.

Q. Do you know how their rates on flour compare with the rates on flour in Official territory?

A. No. I did not examine them.

Q. Was this concern the only one of the membership of your organization that asked you to give particular testimony here as to their business?

A. No. I told you that the only reason I put it in for them is because their man has gone into the Army. Shall I go further? We had other witnesses——

[fol. 1352] Mr. Norman: That is what he wants to know. Tell it to him.

A. We had a witness who was very anxious to go on the stand and who prepared many exhibits and had a very nice story to tell you. We had to tell him to stay home because his commodities move generally speaking on third class or class 70, less than carload, and under exceptions—that is, under exceptions both carload and less than carload, and according to the ruling he could not testify. He was prepared to come up here and testify, and we told him not to. That is the Plough Company.

By Mr. McCollester:

Q. Have you finished?

A. Yes.

Q. Now, you referred in your testimony to macaroni as typical. Do you mean to imply that it is typical of the movement or shipment of boots and shoes?

A. No. I said the rates were typical.

Q. In other words, if there is any other commodity that moves at the same rates, these are the rates at which it moves?

A. That is right.

Q. That is all your testimony amounts to?

A. That is right.

Mr. McCollester: That is all.

Mr. Norman: Now, let's see.

By Mr. Norman:

Q. If there are any other commodities that move on [fol. 1353] fourth class in both territories, then those are the rates that you have shown?

A. Yes—well, no. Not fourth class. Fourth class in the south is 55 per cent and in the north 50 per cent on macaroni. We have a class 50 rating in the classification, not fourth class, south of the river.

Q. With respect to any commodity that moves on fourth class in Official territory or class 50 in Southern territory, everything you have shown about macaroni in so far as rates are concerned, would apply as to such commodities?

A. That is right.

Mr. Norman: That is all.

By Mr. Dougherty:

Q. Would that be true if there was an exception, or specific less than carload commodity rates on the other commodities?

A. He did not ask that kind of question.

Q. I beg your pardon?

A. He did not ask that kind of question.

Q. If the rating was column 50 in the classification and there were less than carload commodity rates, then it would not move on the column 50, would it?

A. No.

Q. Then it would not be true, would it?

A. It would be true. I answered his question correctly. He said, moving on those classes.

[fol. 1354] Exam. Carter: I think we know what that question means. Is there anything further?

Mr. Wood: I have one question.

By Mr. Wood:

Q. Mr. Mitchell, do you have a candy manufacturer in Memphis?

A. A very large one.

Q. Do you know what candy moves on in the south?

A. It moves on class rates.

Q. Class rates, or under exceptions?

A. It is probably under exceptions. We ship it in both carloads and less than carloads and we have been having a great deal of difficulty about it.

Q. Is your candy man interested in this case?

A. Very much so.

Mr. Wood: That answers that.

By Mr. Wood:

Q. Now, could you get a candy man up here to testify if his commodity does not move on class rates?

Mr. McCollester: I object to what they could or could not do. You have this witness here, and that is the answer.

The Witness: We can get one here.

Exam. Carter: Let us not go into that, gentlemen.

By Mr. Wood:

Q. You did not mean to say that the macaroni manufacturer was the only one in Memphis that was complaining, did you?

A. No. They are not.

[fols. 1355-1356] Mr. Wood: The difficulty is, he has plenty of manufacturers complaining, but their commodities move on exceptions rather than class rates.

Mr. Norman.: I think he has explained all that.

Mr. Wood: That is all.

Exam. Carter: Are there any other questions of Mr. Mitchell? (No response.) You are excused, Mr. Mitchell.

(Witness excused.)

Exam. Carter: If there is nothing further to be presented at this time, the hearing will stand adjourned.

(At 12 o'clock M., September 26, 1942, hearing closed.)

355-A

I.C.C. DOCKETS 28300 AND 28310

WITNESS JENSEN

EXHIBIT NO. 71

Table of Short Line Distance Factors to be Used in Constructing First Class Rates under Formulas Proposed by Witness T. G. Jensen in his Exhibit No. 7 introduced at July 10-11, 1941 - St. Louis, Mo. Hearing-- I.C.C. Dockets 28300 and 28310 on Traffic from Albany and New York, N.Y., Pittsburgh, Pa. and Boston and Springfield, Mass., representative of Eastern Trunk Line and New England territories, to representative points in Louisiana, Texas, Kansas and Oklahoma when moving via ocean-rail through North Atlantic and Gulf Ports. (Jensen formulas are shown on page 4 of this Exhibit.)

RAIL DISTANCE FACTORS TO NORTH ATLANTIC PORTS

(1) N.Y.N.H.& H. - Boston, Mass. to New York, N.Y. -------227 Miles - 105% Zone.

(1) N. Y. C. RR. - Albany, N. Y. to New York, N.Y. -------142 Miles - 105% Zone.

(1) N.Y.N.H.& H. - Springfield, Mass. to New York, N.Y. -----134 Miles - 105% Zone.

(1) B. & O. - Pittsburgh, Pa., to Meyersdale, Pa. --113
(1) W.M. - Meyersdale to Cumberland, W. Va. ------ 31
(1) W.M. - Cumberland to Baltimore, Md. ---------186 310 Miles - 105% Zone.

WATER DISTANCES FROM NORTH ATLANTIC PORTS TO GULF PORTS

(2) Equated on basis of 3.6 Statute Miles to 1 Rail Mile. 105% Zone Factors proposed for All distances shown as Equated Miles.

New York, N.Y. to New Orleans, La. 545 Boston, Mass. to New Orleans, La. 598
New York, N.Y. to Galveston, Tex. 604 Boston, Mass. to Galveston, Tex. 657
New York, N.Y. to Houston, Tex. 619. Boston, Mass. to Houston, Tex. 673

Baltimore, Md. to New Orleans, La. 519
Baltimore, Md. to Galveston, Tex. 578
Baltimore, Md. to Houston, Tex. 594

TO POINTS ON AND EAST OF THE K.C.S. RY.	DISTANCES FROM (4) NEW ORLEANS, LA.	DISTANCES FROM: (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Alexandria, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 105--150% Zone From New Orleans, La. 184	282	228
Bastrop, La.	To Natchez, Miss. 193--120% Zone From Natchez, Miss. 102--150% Zone From New Orleans, La. 295	343	342

(Continued on Page 2)

TO POINTS ON AND EAST OF K.C.S. RY. (Cont'd.)	DISTANCES FROM (4) NEW ORLEANS, LA.	DISTANCES FROM: (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Blytheville, Ark.	To Memphis, Tenn. 391--120% Zone From Memphis, Tenn. 68--140% Zone From New Orleans, La. 459	621	609
Brinkley, Ark.	To Helena, Miss. 362--120% Zone From Helena, Miss. 47--130% Zone From New Orleans, La. 409	525	484
Camden, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 283--130% Zone From New Orleans, La. 362	395	347
Conway, Ark.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 243--130% Zone From New Orleans, La. 468	513	464
Crowley, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 88--130% Zone From New Orleans, La. 167	189	195
El Dorado, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 251--130% Zone From New Orleans, La. 330	368	352
Eunice, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 78--130% Zone From New Orleans, La. 157	186	192
Fayetteville, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 553--130% Zone From New Orleans, La. 632	605	557
Fordyce, Ark.	To Natchez, Miss. 193--120% Zone From Natchez, Miss. 188--130% Zone From New Orleans, La. 371	418	377
Fort Smith, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 490--130% Zone From New Orleans, La. 569	542	494
Hope, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 300--130% Zone From New Orleans, La. 379	370	322
Houma, La.	From New Orleans, La. 70--130% Zone	315	321
Jennings, La.	From New Orleans, La. 80--130% Zone	171	176

(Continued on Page 3)

TO POINTS ON AND EAST OF K.C.S. RY. (Cont'd.)	DISTANCES FROM (4) NEW ORLEANS, LA.	DISTANCES FROM: (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Plaquemine, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 15--130% Zone From New Orleans, La. 94	290	296
Russellville, Ark.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 287--130% Zone From New Orleans, La. 512	558	509
Searcy, Ark.	To Helena, Ark. 362--120% Zone From Helena, Ark. 85--130% Zone From New Orleans, La. 447	532	484
Shreveport, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 227--130% Zone From New Orleans, La. 306	281	232
Tallulah, La.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 21--130% Zone From New Orleans, La. 246	374	379
Texarkana, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 299--130% Zone From New Orleans, La. 378	353	304
Van Buren, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 496--130% Zone From New Orleans, La. 575	548	500
Vidalia, La.	To Natchez, Miss. 183--120% Zone From Natchez, Miss. 4--130% Zone From New Orleans, La. 187	374	330
Winnfield, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 152--130% Zone From New Orleans, La. 231	269	275

(Continued on Page 5)

TO POINTS ON AND EAST OF K.C.S. RY. (Cont'd.)	DISTANCES FROM (4) NEW ORLEANS, LA.	DISTANCES FROM: (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Jonesboro, Ark.	To Memphis, Tenn. 391--120% Zone From Memphis, Tenn. 64--130% Zone From New Orleans, La. 455	587	558
Kinder, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 104--130% Zone From New Orleans, La. 183	160	166
Lafayette, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 79--130% Zone From New Orleans, La. 158	211	217
Lake Charles, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 137--130% Zone From New Orleans, La. 216	137	143
Little Rock, Ark.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 212--130% Zone From New Orleans, La. 437	494	435
Malvern, Ark.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 342--130% Zone From New Orleans, La. 421	439	390
Mansfield, La.	To Baton Rouge, La. 79--120% Zone From Baton Rouge, La. 199--130% Zone From New Orleans, La. 278	252	258
McGehee, Ark.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 112--130% Zone From New Orleans, La. 337	413	419
Monroe, La.	To Natchez, Miss. 183--120% Zone From Natchez, Miss. 98--130% Zone From New Orleans, La. 281	319	325
Morgan City, La.	From New Orleans, La. 81--130% Zone	275	281
New Iberia, La.	From New Orleans, La. 126--130% Zone	230	236
Paragould, Ark.	To Memphis, Tenn. 391--120% Zone From Memphis, Tenn. 79--130% Zone From New Orleans, La. 470	602	580
Pine Bluff, Ark.	To Vicksburg, Miss. 225--120% Zone From Vicksburg, Miss. 170--130% Zone From New Orleans, La. 395	457	416

(Continued on Page 4)

TO POINTS WEST OF THE K.C.S. RY. (Continued)		(3) 79 miles 120% Zone is used for haul from New Orleans to Baton Rouge, La., unless otherwise shown.	Except as otherwise shown, the mileage from Galveston and Houston, Texas, is in 130% Zone.	
		DISTANCES FROM (4) BATON ROUGE, LA. (Except as otherwise shown, mileage from Baton Rouge is in 130% Zone.)	DISTANCES FROM (4) GALVESTON, TEXAS	DISTANCES FROM (4) HOUSTON, TEXAS
Corsicana,	Texas	403	236	188
Cushing,	Okla.	616	546	498
Dalhart,	Texas	774 (7) 82-140% Zone	643 (7) 82-140% Zone	596 (7) 82-140% Zone
Dallas,	Texas	412	290	242
Denison,	Texas	433	363	315
Denton,	Texas	449	328	280
Durant,	Okla.	453	383	335
Eagle Pass,	Texas	475 (5) 164-140% Zone	239 (5) 165-140% Zone	205 (5) 165-140% Zone
Eastland,	Texas	548	378	331
Elk City,	Okla.	689	559	511
El Paso,	Texas	750 (8) 308-140% Zone	240 (5) 615-140% Zone	206 (5) 615-140% Zone
El Reno,	Okla.	618	517	469
Enid,	Okla.	678	578	530
Farwell,	Texas	761 (7) 95-140% Zone	644 (7) 94-140% Zone	596 (7) 94-140% Zone
Fort Worth,	Texas	443	308	260
Gainesville,	Texas	463	327	325
Greenville,	Texas	381	329	281
Guthrie,	Okla.	623	545	497

(Continued on Page 7)

TO POINTS WEST OF THE K.C.S. RY. (Continued)	(3) 79 miles 120% Zone is used for haul from New Orleans to Baton Rouge, La., unless otherwise shown. DISTANCES FROM (4) BATON ROUGE, LA. (Except as otherwise shown, mileage from Baton Rouge is in 130% Zone.)	Except as otherwise shown, the mileage from Galveston and Houston, Texas, is in 130% Zone DISTANCES FROM (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Henryetta, Okla.	577	507	459
Hillsboro, Texas	462	266	219
Holdenville, Okla.	547	476	428
Hugo, Okla.	406	399	351
Jacksonville, Texas	338	225	177
Laredo, Texas	473 (5) 153-140% Zone	213 (6) 157	205 (5) 154
Lawton, Okla.	584	461	413
Lubbock, Texas	766	572	524
Lufkin, Texas	298	167	118
Marshall, Texas	261	302	254
McAlester, Okla.	[illegible]	458	410
Miami, Okla.	627	611	563
Midland, Texas	751	561	516
Muskogee, Okla.	546	520	472
Navasota, Texas	327	118	70
New Braunfels, Texas	455	230	185
Oklahoma City, Okla.	591	513	465
Okmulgee, Okla.	585	521	472
Orange, Texas	176	100	106

(Continued on Page 8)

POINTS WEST OF THE K.C.S. RY. (Continued)	(3) 79 miles 120% Zone is used for haul from New Orleans to Baton Rouge, La., unless otherwise shown.	Except as otherwise shown, the mileage from Galveston and Houston, Texas, is in 130% Zone	
	DISTANCES FROM (4) BATON ROUGE, LA. (Except as otherwise shown, mileage from Baton Rouge is in 130% Zone.)	DISTANCES FROM (4) GALVESTON, TEXAS	(4) HOUSTON, TEXAS
Palestine, Texas	365	198	151
Paris, Texas	381	374	326
Pawhuska, Okla.	647	614	566
Pecos, Texas	750	561	513
	(8) 94-140% Zone	(8) 94-140% Zone	(8) 94-140% Zone
Ponca City, Okla.	685	608	560
Port Arthur, Texas	206	97	102
Ranger, Texas	538	370	323
San Angelo, Texas	660	439	392
San Antonio, Texas	475	240	206
San Marcos, Texas	438	213	168
Sapulpa, Okla.	610	552	504
Shawnee, Okla.	566	496	448
Sherman, Texas	429	354	306
Sweetwater, Texas	645	456	408
Temple, Texas	432	211	163
Terrell, Texas	377	297	249
Tulsa, Okla.	598	566	518
Tyler, Texas	329	256	208
Uvalde, Texas	475	239	205
	(6) 92-140% Zone	(5) 92-140% Zone	(5) 92-140% Zone

(Continued on Page 9)

TO POINTS WEST OF THE K.C.S. RY.	(3).79 miles 120% Zone is used for haul from New Orleans to Baton Rouge, La., unless otherwise shown. DISTANCES FROM (4) BATON ROUGE, LA. (Except as otherwise shown, mileage from Baton Rouge, La., is in 130% Zone.)	Except as otherwise shown, the mileage from Galveston and Houston, Texas, is in 130% Zone DISTANCES FROM (4) GALVESTON, TEXAS	(4) HOUSTON, TEX.
(Continued):			
Vernon, Texas	602	471	423
Victoria, Texas	398	156	129
Vinita, Okla.	601	585	537
Waco, Texas	645	233	186
Waxahachie, Texas	428	267	219
Wichita, Kans.	760	676	628
Woodward, Okla.	773	643	595
Yoakum, Texas	391	163	121

JENSEN FORMULAS FOR CONSTRUCTING FIRST CLASS RATES:

Zone	A terminal element of 25 cents in all territories, plus line-haul elements as indicated: Up to 500 Miles (¢ per 100 Miles)	Beyond 500 Miles (¢ per 100 Miles)
100%	17.8	13.5
105%	18.69	14.175
110%	19.58	14.85
115%	20.47	15.525
120%	21.36	16.2
130%	23.14	17.55
140%	24.92	18.9

(Continued on Page 10)

"In the computation of rates, for all classes and distances, fractions of cents should be eliminated as they are today. The rate-making distance should remain, as at present, that by the shortest route over which a shipment can be moved without transferring it from one car to another."

"Interterritorial Class Rates and Classifications.

"Reverting now to the matter of interterritorial or inter-zone rates, such rates for first class should be constructed by adding to the terminal element of 25 cents the line-haul element in the appropriate scale for the distance traversed in the lowest-rated zone, further adding the line-haul element under the scale for the next higher-rated zone traversed for the total distance in the two zones, less the line-haul element under the same (higher) scale for the distance in the first zone; and so progressively for each additional higher-rated zone traversed. The purpose of the subtraction is to allow for the change in progression of the line-haul element beyond 500 miles. If the total distance from origin to destination is less than 500 miles the rate can be computed by adding to the terminal factor the line-haul element for the distance traversed in each zone at the rate of progression provided in the appropriate scales for distances under 500 miles. Likewise, after a rate has been computed by the method described above for a distance of 500 miles or more, it can be extended through other zones merely by adding the line-haul element at the rate of progression provided in the proper scale for each additional zone traversed."

(JENSEN EXHIBIT NO. 7 - PAGES 80, 81, 94 AND 95)

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(See Page 11)

EXPLANATION OF BRACKETED FIGURES

(1) Distances taken from The Official Guide of The Railways.

(2) Equated miles obtained by multiplying nautical miles by 1.15155 and dividing the resulting statute miles by 3.6. Nautical Distances are shown in Serial No. 444 (Revised 1938 Edition) United States Coast Pilot Series, published by the Department of Commerce, United States Coast and Geodetic Survey.

(3) Distance named in Southwestern Lines' Mileage Table No. 4-D, Tariff No. 264-A, J.R.Peel, Agent, I.C.C. No. 3339.

(4) Distances obtained from Southwestern Lines' Mileage Table No. 4-D, Tariff No. 264-A, J. R. Peel, Agent, I.C.C. No. 3339; Southwestern Lines' Mileage Table No. 2-G, J. R. Peel, Agent, I.C.C. 2321; Texas Lines' Mileage Circular No. 9-J, Ira D. Dodge, Agent, I.C.C. No. 495; and Texas Lines' Short Line Mileage Circular No. 22-A, Ira D. Dodge, Agent, I.C.C. No. 503.

(5) Distance from San Antonio, Texas.

(6) Distance from Odem, Texas.

(7) Distance from Amarillo, Texas.

(8) Distance from Midland, Texas.

* * * * * *

New Orleans, La.
August 24, 1942

TO POINTS WEST OF THE K.C.S. RY.	(3) 79 miles 120% Zone is used for haul from New Orleans to Baton Rouge, La., unless otherwise shown. DISTANCES FROM (4) BATON ROUGE, LA. (Except as otherwise shown, mileage from Baton Rouge is in 130% Zone.)	Except as otherwise shown, the mileage from Galveston and Houston, Texas is in 130% Zone. DISTANCES FROM (4) GALVESTON, TEXAS	DISTANCES FROM (4) HOUSTON, TEXAS
Abilene, Texas	604	426	378
Ada, Okla.	518	448	400
Alpine, Texas	475	239	205
" "	(5) 394-140% Zone	(5) 394-140% Zone	(5) 394-140% Zone
Altus, Okla.	629	489	451
Alva, Okla.	746	646	598
Amarillo, Texas	774	644	596
Anadarko, Okla.	605	498	449
Ardmore, Okla.	490	412	364
Arkansas City, Kans.	710	634	586
Austin, Texas	434	212	164
Bartlesville, Okla.	648	616	568
Blackwell, Okla.	703	625	577
Brownsville, Texas	475	213	204
" "	(6) 140-140% Zone	(6) 154-140% Zone	(6) 154-140% Zone
Brownwood, Texas	562	343	295
Chickasha, Okla.	586	484	436
Childress, Texas	659	526	480
Cisco, Texas	588	381	334
Clinton, Okla.	682	555	507
Corpus Christi, Tex.	492	230	221

(Continued on Page 6)

1355-B

I.C.C. DOCKETS 28300 and 28310
Witness
Exhibit No.

STATEMENT SHOWING COMPARISON OF PRESENT PUBLISHED FIRST CLASS RATES IN EFFECT PRIOR TO EX PARTE 148 INCREASES OF MARCH 18, 1942, WITH RESULTING FIRST CLASS RATES CONSTRUCTED UNDER FORMULAS PROPOSED BY WITNESS C. G. JENSEN IN HIS EXHIBIT NO.7, INTRODUCED AT THE OPENING HEARING AT ST. LOUIS, MO., JULY 10 AND 11, 1941, TO REPRESENTATIVE POINTS IN ARKANSAS AND LOUISIANA LOCATED ON AND EAST OF KANSAS CITY SOUTHERN LINES, ALSO TO REPRESENTATIVE POINTS IN MISSISSIPPI, AND TO BATON ROUGE, LA., AND MEMPHIS, TENN., VIA ALL-RAIL, ALSO VIA RAIL-WATER-RAIL THROUGH NEW ORLEANS, LA., FROM PITTSBURGH, PA., ALBANY AND NEW YORK, N.Y., BOSTON AND SPRINGFIELD, MASS., REPRESENTATIVE OF EASTERN TRUNK LINE AND NEW ENGLAND TERRITORIES. EXCEPT AS NOTED, DIFFERENCES SHOWN ARE IN FAVOR OF THE GULF ROUTE.

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO POINTS IN ARKANSAS AND LOUISIANA ON AND EAST OF THE K.C.S. LINES:	FROM PITTSBURGH, PA.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Alexandria, La.	284	288	•4	1,128	(1)	220	200	20
Bastrop, La.	263	298	•35	1,017	(1)	201	216	•15
Blytheville, Ark.	199	---	---	842	(2)	166	244	•78
Brinkley, Ark.	227	307	•80	861	(1)	173	235	•62
Camden, Ark.	256	307	•51	999	(1)	197	231	•34
Conway, Ark.	242	318	•76	953	(1)	189	247	•58
Crowley, La.	292	288	4	1,206	(1)	234	197	37
El Dorado, Ark.	260	307	•47	1,019	(1)	201	225	•24
Eunice, La.	292	288	4	1,184	(1)	230	195	35
Fayetteville, Ark.	243	353	•110	965	(2)	192	278	•86
Ferdyce, Ark.	248	307	•59	969	(1)	192	231	•39
Ft. Smith, Ark.	257	329	•72	983	(2)	195	267	•72
Hope, Ark.	256	311	•55	1,037	(1)	204	234	•30
Houma, La.	296	261	35	1,296	(1)	250	183	67

(Continued on Page 2)

ICC DKTS. 28300 & 28310
Exhibit No. 72

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

FROM PITTSBURGH, PA. (Cont'd.)

POINTS IN ANSAS AND ISIANA ON EAST OF K. C. S. ES:	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail			Rail-Water-Rail	Difference
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate		
ings, La.	303	288	15	1,217	(3)	236	181	55
sboro, Ark.	206	---	---	850	(2)	172	243	•71
er, La.	303	288	15	1,190	(1)	231	199	32
yette, La.	292	273	19	1,211	(1)	235	195	40
Charles, La.	303	274	29	1,223	(1)	237	205	32
tle Rock, Ark.	235	307	•72	925	(1)	184	242	•58
vern, Ark.	244	307	•63	969	(1)	192	241	•49
nfield, La.	282	298	•16	1,144	(1)	223	216	7
hee, Ark.	243	307	•64	937	(1)	187	224	•37
roe, La.	263	298	•35	1,031	(1)	203	215	•12
gan City, La.	299	261	38	1,276	(1)	246	185	61
Iberia, La.	292	273	19	1,230	(1)	238	193	45
gould, Ark.	199	320	•121	871	(1)	176	246	•71
Bluff, Ark.	242	307	•65	929	(1)	185	235	•50
quemine, La.	282	261	21	1,237	(3)	239	184	55
sellville, Ark.	252	329	•77	998	(1)	197	255	•58
rey, Ark.	227	320	•93	895	(1)	179	242	•63
veport, La.	275	298	•23	1,113	(1)	217	221	•4
lulah, La.	254	298	•44	1,033	(4)	200	209	• 9
rimma, Ark.	264	311	•47	1,070	(1)	210	234	•24
Buren, Ark.	257	329	•72	1,023	(2)	202	268	•66
lia, La.	263	288	•25	1,092	(1)	214	199	15
nfield, La.	277	296	•19	1,100	(1)	215	208	7

(Continued on Page 3)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 166 INCREASES)

POINTS IN ANSAS AND ISIANA ON EAST OF K. C. S. ES:	FROM NEW YORK, N.Y.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail Water-Rail	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
xandria, La.	314	267	47	1,493	(5)	278	159	119
trop, La.	309	277	32	1,382	(5)	259	176	83
theville, Ark.	253	---	--	1,225	(5)	231	203	28
nkley, Ark.	279	286	•7	1,226	(5)	232	195	37
den, Ark.	309	286	23	1,364	(5)	256	191	65
ray, Ark.	295	297	•2	1,318	(5)	248	207	41
wley, La.	314	267	47	1,571	(5)	292	156	36
Dorado, Ark.	312	286	26	1,384	(5)	259	185	74
ice, La.	314	267	47	1,549	(5)	288	155	133
ttsville, Ark.	297	332	•35	1,404	(2)	254	238	16
dyce, Ark.	300	286	14	1,333	(5)	250	191	59
Smith, Ark.	310	308	2	1,447	(5)	270	227	43
e, Ark.	309	290	19	1,402	(5)	262	194	68
a, La.	309	240	69	1,661	(5)	308	143	65
nings, La.	327	267	60	1,580	(6)	294	141	153
esboro, Ark.	261	---	--	1,221	(5)	231	203	28
der, La.	327	267	60	1,555	(5)	289	159	130
yette, La.	304	252	52	1,576	(5)	293	155	138
Charles, La.	327	253	74	1,588	(5)	295	165	130
tle Rock, Ark.	287	286	1	1,290	(5)	243	206	37
vern, Ark.	296	286	10	1,334	(5)	251	201	50

(Continued on Page 4)

ICC DKTS. 28300 & 28310
Exhibit No. 72

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

POINTS IN KSAS AND ISIANA ON EAST OF K. C. S. ES:	FROM NEW YORK, N.Y. (Cont'd.)							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
field, La.	334	277	57	1,509	(5)	281	176	105
hee, Ark.	289	286	3	1,302	(5)	245	184	61
oe, La.	309	277	32	1,396	(5)	261	175	86
an City, La.	312	240	72	1,641	(5)	304	145	159
Iberia, La.	314	252	62	1,695	(5)	296	152	144
gould, Ark.	253	299	•46	1,236	(5)	233	205	28
Bluff, Ark.	295	286	9	1,294	(5)	243	194	49
uemine, La.	289	240	49	1,602	(6)	298	144	154
ellville, Ark.	305	308	•3	1,363	(5)	256	215	41
cy, Ark.	279	299	•20	1,260	(5)	237	202	35
veport, La.	328	277	51	1,478	(5)	276	181	95
lulah, La.	289	277	12	1,303	(7)	243	168	75
rkana, Ark.	318	290	28	1,435	(5)	268	193	75
aren, Ark.	310	308	2	1,441	(5)	269	228	41
lia, La.	289	267	22	1,457	(5)	272	159	113
nfield, La.	314	275	39	1,465	(5)	273	168	105

(Continued on Page 5)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

POINTS IN ANSAS AND ISIANA ON EAST OF K. C. S. ES:	FROM BOSTON, MASS.								
	(A) PRESENT			(B) JENSEN FORMULAS					
				All-Rail			Rail-Water-Rail		
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate		Difference
xandria, La.	325	274	51	1,762	(8)	309	167	142
trop, La.	325	284	41	1,651	(8)	290	183	107
theville, Ark.	270	---	--	1,432	(9)	273	211	62
nkley, Ark.	297	293	4	1,495	(8)	262	202	60
den, Ark.	328	293	35	1,633	(8)	286	198	88
way, Ark.	314	304	10	1,573	(9)	298	215	83
wley, La.	325	274	51	1,840	(8)	323	164	159
Dorado, Ark.	331	293	38	1,653	(8)	290	193	97
ice, La.	325	274	51	1,818	(8)	319	162	157
tteville, Ark.	315	339	*24	1,555	(9)	295	246	49
dyce, Ark.	319	293	26	1,602	(8)	281	198	83
Smith, Ark.	327	315	12	1,618	(9)	306	234	72
e, Ark.	328	297	31	1,447	(9)	276	201	75
na, La.	320	246	74	1,930	(8)	339	150	189
nings, La.	338	274	64	1,851	(10)	325	148	177
esboro, Ark.	277	---	--	1,441	(9)	275	210	65
der, La.	338	274	64	1,824	(8)	320	167	153
ayette, La.	316	259	57	1,845	(8)	324	162	162
e Charles, La.	338	260	78	1,857	(8)	326	173	153

(Continued on Page 6)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

POINTS IN NSAS AND SIANA ON EAST OF K. C. S. S:	FROM BOSTON, MASS. (Cont'd.)							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail			Rail-Water-Rail	Difference
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate		
le Rock, Ark.	306	293	13	1,546	(9)	293	209	84
ern, Ark.	315	293	22	1,589	(9)	301	208	93
field, La.	354	284	70	1,778	(8)	342	183	129
hee, Ark.	303	293	10	1,571	(8)	275	192	83
oe, La.	325	284	41	1,665	(8)	292	183	109
n City, La.	325	246	79	1,910	(8)	335	152	183
Iberia, La.	325	259	66	1,864	(8)	327	160	167
gould, Ark.	270	306	*36	1,419	(9)	271	213	58
Bluff, Ark.	314	293	21	1,663	(8)	274	202	72
uemine, La.	303	246	57	1,871	(10)	328	151	177
ellville, Ark.	323	215	8	1,618	(9)	306	222	84
dy, Ark.	297	306	*9	1,500	(9)	285	209	76
veport, La.	348	284	64	1,747	(8)	306	188	118
ulah, La.	303	284	19	1,530	(11)	275	176	99
rkana, Ark.	337	297	40	1,690	(9)	318	201	117
Luren, Ark.	327	315	12	1,612	(9)	305	235	70
lia, La.	303	274	29	1,726	(8)	303	166	137
field, La.	325	282	43	1,734	(8)	304	175	129

(Continued on Page 7)

I.C.C. DOCKETS 28300 and 28310
Witness THORNTON
Exhibit No. 71

TABLE OF DISTANCES IN #NAUTICAL, ØSTATUTE AND *EQUATED
MILEAGE BETWEEN REPRESENTATIVE NORTH ATLANTIC AND GULF PORTS.

BETWEEN / AND:	NEW ORLEANS, LA.			GALVESTON, TEX.			HOUSTON, TEX.			BEAUMONT, TEX.			CORPUS CHRISTI, TEXAS			MOBILE, ALA.		
	Nautical	Statute	Equated	Nautical	Statute	Equated	Nautical	Statute	Equated	Nautical	Statute	Equated	Nautical	Statute	Equated	Nautical	Statute	Equated
BOSTON, MASS.	1870	2153	598	2055	2366	657	2103	2422	673	2048	2358	655	2155	2482	690	1821	2097	583
NEW YORK, N.Y.	1703	1961	545	1888	2174	604	1936	2229	619	1861	2166	602	1988	2289	0636	1654	1905	529
PHILADELPHIA, PA.	1670	1923	534	1855	2136	593	1903	2191	609	1845	2128	591	1955	2251	625	1621	1867	516
BALTIMORE, MD.	1623	1869	519	1808	2082	578	1856	2137	594	1801	2074	576	1908	2197	610	1574	1813	504
NORFOLK, VA.	1499	1726	480	1684	1939	539	1732	1994	554	1677	1931	416	1784	2054	571	1450	1670	464

- Nautical Distances are those shown in Serial No. 444 - Revised (1938) Edition, United States Coast Pilot Series, published by the Department of Commerce, United States Coast and Geodetic Survey.

Ø - Statute Distances are obtained by multiplying the nautical mileage by 1.15155.

* - Equated Distances are obtained by dividing the statute mileage by 3.6.

New Orleans, La.
August 20, 1942

23561

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO POINTS IN ARKANSAS AND LOUISIANA ON AND EAST OF THE K. C. S. LINES:	FROM ALBANY, N. Y.								
	(A) PRESENT			(B) JENSEN FORMULAS					
				All-Rail			Rail-Water-Rail		
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate		Difference
Alexandria, La.	325	277	48	1,562	(12)	281	179	102
Bastrop, La.	309	287	22	1,451	(12)	261	196	65
Blytheville, Ark.	245	---	--	1,232	(13)	245	223	22
Brinkley, Ark.	279	296	•17	1,295	(12)	234	215	19
Camden, Ark.	309	296	13	1,433	(12)	258	211	47
Conway, Ark.	295	307	•12	1,373	(13)	269	227	42
Crowley, La.	325	277	48	1,640	(12)	294	176	118
El Dorado, Ark.	312	296	16	1,453	(12)	262	205	57
Eunice, La.	325	277	48	1,618	(12)	290	175	115
Fayetteville, Ark.	290	342	•52	1,355	(13)	266	258	8
Fordyce, Ark.	300	296	4	1,402	(12)	253	211	42
Ft. Smith, Ark.	305	318	•13	1,642	(13)	277	247	30
Hope, Ark.	309	300	9	1,471	(13)	247	214	33
Houma, La.	320	250	70	1,730	(12)	310	163	147
Jennings, La.	338	277	61	1,651	(14)	296	161	135
Jonesboro, Ark.	254	---	--	1,241	(13)	246	223	23
Kinder, La.	338	277	61	1,624	(12)	292	179	113
Lafayette, La.	316	262	54	1,645	(12)	295	175	120
Lake Charles, La.	338	263	75	1,657	(12)	297	185	112

(Continued on Page 8)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO POINTS IN ARKANSAS AND LOUISIANA ON AND EAST OF THE K. C. S. LINES:	FROM ALBANY, N.Y. (Cont'd.)							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Little Rock, Ark.	287	296	+9	1,359	(12)	245	222	23
Malvern, Ark.	296	296	0	1,389	(13)	272	221	51
Mansfield, La.	334	287	47	1,578	(12)	284	196	88
McGehee, Ark.	297	296	+4	1,371	(12)	247	204	43
Monroe, La.	309	287	22	1,465	(12)	264	195	69
Morgan City, La.	325	250	75	1,710	(12)	307	165	142
New Iberia, La.	325	262	63	1,664	(12)	299	173	126
Paragould, Ark.	245	309	+64	1,219	(13)	242	225	17
Pine Bluff, Ark.	295	295	+1	1,363	(12)	246	214	32
Plaquemine, La.	303	250	53	1,671	(14)	300	164	136
Russellville, Ark.	305	318	+13	1,418	(13)	277	235	42
Searcy, Ark.	279	309	+30	1,300	(13)	257	222	35
Shreveport, La.	328	287	41	1,547	(12)	278	201	77
Tallulah, La.	300	287	13	1,445	(15)	263	188	75
Texarkana, Ark.	318	300	18	1,490	(13)	290	213	77
Van Buren, Ark.	305	318	+13	1,412	(13)	276	248	28
Vidalia, La.	303	277	26	1,526	(12)	274	179	95
Winnfield, La.	325	285	40	1,534	(12)	276	188	88

(Continued on Page 9)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO POINTS IN ARKANSAS AND LOUISIANA ON AND EAST OF THE K. C. S. LINES:	FROM SPRINGFIELD, MASS.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Alexandria, La.	325	274	51	1,627	(16)	297	178	119
Bastrop, La.	322	284	38	1,516	(16)	278	195	83
Blytheville, Ark.	260	---	--	1,359	(16)	250	222	28
Brinkley, Ark.	288	293	•5	1,360	(16)	251	214	37
Camden, Ark.	318	293	25	1,498	(16)	275	210	65
Conway, Ark.	304	304	0	1,452	(16)	267	226	41
Crowley, La.	325	274	51	1,705	(16)	311	175	136
El Dorado, Ark.	321	293	28	1,518	(16)	278	204	74
Eunice, La.	325	274	51	1,683	(16)	307	174	133
Fayetteville, Ark.	305	339	•34	1,457	(13)	281	257	24
Fordyce, Ark.	309	293	16	1,467	(16)	269	210	59
Ft. Smith, Ark.	317	315	2	1,520	(13)	292	246	46
Hope, Ark.	318	297	21	1,536	(16)	281	213	68
Houma, La.	320	246	74	1,795	(16)	327	161	166
Jennings, La.	338	274	64	1,716	(17)	313	160	153
Jonesboro, Ark.	267	---	--	1,343	(13)	261	222	39
Kinder, La.	338	274	64	1,689	(16)	308	178	130
Lafayette, La.	316	259	57	1,710	(16)	312	174	138
Lake Charles, La.	338	260	78	1,722	(16)	314	184	130

(Continued on Page 10)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO POINTS IN ARKANSAS AND LOUISIANA ON AND EAST OF THE K. C. S. LINES:	FROM SPRINGFIELD, MASS. (Cont'd.)								
	(A) PRESENT			(B) JENSEN FORMULAS					
				All-Rail			Rail-Water-Rail	Difference
	All-Rail	Rail-Water-Rail	Difference	Distance	Route	Rate		
Little Rock, Ark.	296	293	3	1,424	(16)	262	221	41
Malvern, Ark.	305	293	12	1,468	(16)	270	220	50
Mansfield, La.	344	284	60	1,643	(16)	300	195	105
McGehee, Ark.	303	293	10	1,436	(16)	264	203	61
Monroe, La.	322	284	38	1,530	(16)	280	194	86
Morgan City, La.	325	246	79	1,775	(16)	323	163	160
New Iberia, La.	325	259	66	1,729	(16)	315	171	144
Paragould, Ark.	260	306	-46	1,321	(13)	257	224	33
Pine Bluff, Ark.	304	293	11	1,428	(16)	262	213	49
Plaquemine, La.	303	246	57	1,736	(17)	317	163	154
Russellville, Ark.	314	315	-1	1,497	(16)	275	234	41
Searcy, Ark.	288	306	-18	1,394	(16)	256	221	35
Shreveport, La.	338	284	54	1,612	(16)	295	200	95
Tallulah, La.	303	284	19	1,437	(18)	262	187	75
Texarkana, Ark.	327	297	30	1,569	(16)	287	212	75
Van Buren, Ark.	317	315	2	1,514	(13)	291	247	44
Vidalia, La.	303	274	29	1,591	(16)	291	177	114
Winnfield, La.	325	282	43	1,599	(16)	292	187	105

(Continued on Page 11)

ICC DOCKETS 28300 & 28310
Exhibit No. 72
PAGE 11.

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

T O:	FROM PITTSBURGH, PA.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail (C)	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Baton Rouge, La.	270	(D)	--	1,146	(20)	218	181	37
Brookhaven, Miss.	253	(D)	--	1,033	(20)	210	189	21
Durant, Miss.	233	(D)	--	921	(20)	182	207	*25
Greenville, Miss.	233	(D)	--	943	(20)	186	218	*32
Hattiesburg, Miss.	253	(D)	--	1,026	(20)	211	187	23
Jackson, Miss.	242	(D)	--	979	(20)	191	198	*7
Memphis, Tenn.	200	(D)	--	792	(19)	161	232	*71
Natchez, Miss.	260	(D)	--	1,077	(20)	207	198	9
Vicksburg, Miss.	246	(D)	--	1,012	(20)	197	205	8
T O:	FROM NEW YORK, N. Y.							
Baton Rouge, La.	276	238	38	1,402	(23)	260	141	119
Brookhaven, Miss.	276	238	38	1,291	(23)	241	149	92
Durant, Miss.	267	(D)	--	1,218	(24)	229	167	62
Greenville, Miss.	267	(D)	--	1,271	(25)	238	178	60
Hattiesburg, Miss.	267	229	38	1,227	(26)	231	147	84
Jackson, Miss.	267	229	38	1,235	(23)	232	157	75
Memphis, Tenn.	252	(D)	--	1,157	(21)	220	191	29
Natchez, Miss.	276	238	38	1,335	(23)	248	158	90
Vicksburg, Miss.	276	238	38	1,282	(23)	240	165	75

(Continued on Page 12)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO:	FROM BOSTON, MASS.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail (C)	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Baton Rouge, La.	290	255	35	1,631	(28)	292	148	144
Brookhaven, Miss.	290	255	35	1,518	(28)	273	157	116
Durant, Miss.	282	(D)	--	1,445	(29)	261	174	87
Greenville, Miss.	282	(D)	--	1,498	(30)	270	185	85
Hattiesburg, Miss.	282	246	36	1,454	(28)	263	154	109
Jackson, Miss.	282	246	36	1,464	(28)	265	165	100
Memphis, Tenn.	267	(D)	--	1,426	(27)	250	199	51
Natchez, Miss.	290	255	35	1,562	(28)	280	165	115
Vicksburg, Miss.	290	255	35	1,509	(28)	272	172	100
TO:	FROM ALBANY, N. Y.							
Baton Rouge, La.	290	255	35	1,546	(31)	280	161	119
Brookhaven, Miss.	290	255	35	1,433	(31)	261	169	92
Durant, Miss.	276	(D)	--	1,360	(32)	249	187	62
Greenville, Miss.	273	(D)	--	1,413	(33)	258	198	60
Hattiesburg, Miss.	282	246	36	1,369	(31)	251	167	84
Jackson, Miss.	276	246	30	1,379	(31)	252	177	75
Memphis, Tenn.	253	(D)	--	1,226	(34)	222	212	10
Natchez, Miss.	290	255	35	1,477	(31)	268	178	90
Vicksburg, Miss.	285	255	30	1,424	(31)	260	185	75

(Continued on Page 13)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO:	FROM SPRINGFIELD, MASS.							
	(A) PRESENT			(B) JENSEN FORMULAS				
				All-Rail				
	All-Rail	Rail-Water-Rail (C)	Difference	Distance	Route	Rate	Rail-Water-Rail	Difference
Baton Rouge, La.	290	255	35	1,538	(28)	278	160	118
Brookhaven, Miss.	290	255	35	1,425	(28)	260	168	92
Durant, Miss.	282	(D)	--	1,352	(29)	248	186	62
Greenville, Miss.	282	(D)	--	1,405	(30)	257	197	60
Hattiesburg, Miss.	282	246	36	1,361	(28)	250	166	84
Jackson, Miss.	282	246	36	1,371	(28)	251	176	75
Memphis, Tenn.	267	(D)	--	1,291	(35)	238	210	28
Natchez, Miss.	290	255	35	1,469	(28)	267	177	90
Vicksburg, Miss.	290	255	35	1,416	(28)	259	183	76

EXPLANATION OF REFERENCE MARKS:

(A) Rates are those in effect prior to Ex Parte 148 increases of March 18, 1942. All-Rail rates are those published in Southwestern Lines Tariff No. 252-A, J. R. Peel, Agent, I.C.C. No. 3360, and Trunk Lines Tariff Bureau Tariff No. 44-H, W. S. Curlett, Agent, I.C.C. No. A-712. Rail-Water-Rail rates are those published in Trunk Lines Tariff Bureau Freight Tariff No. 121-B, W. S. Curlett, Agent, I.C.C. No. A-732. — Due to interruptions of service over which carriers have had no control, steamship services formerly used in the transportation of freight within the scope of this tariff have been temporarily suspended to the extent indicated in tariff.

(B) Jensen formulas are those proposed by Witness C. G. Jensen in his exhibit No. 7 introduced at the opening hearing at St. Louis, Mo., July 10 and 11, 1941 — I.C.C. Dockets 28300 and 28310. Jensen formulas, and distances used in constructing Rail-Water-Rail rates under such formulas, are shown on Witness _____ Exhibit No. _____.

(Continued on Page 14)

EXPLANATION OF REFERENCE MARKS (Continued):

(C) Rail-Water-Rail rates shown from New York, Boston, Albany and Springfield, to Baton Rouge, La., Brookhaven, Hattiesburg, Jackson, Natchez and Vicksburg, Miss., are those in effect March 20, 1941, via New Orleans, La., as published in Southern Pacific Co. "Morgan Line" Tariff No. 121-G, I.C.C. No. 1044. Effective March 21, 1941, the tariff was cancelled in its entirety by Supplement No. 39 thereto, account discontinuance of "Morgan Line" service to New Orleans.

(D) No Rail-Water-Rail rates in effect.

•--Indicates difference in favor All-Rail rates.

Figures in parenthesis, (1) to (35) inclusive, refer to routes via which Jensen formula All-Rail rates are figured. See pages 15-16 for the routes.

Authorities for distances used in figuring All-Rail Rates under Jensen Formulas:

The Official Guide of the Railways.

Southwestern Lines' Mileage Table No. 4-D Tariff No. 264-A, J. R. Peel, Agent, I.C.C. No. 3339.

Southwestern Lines Mileage Table No. 2-G, J. R. Peel, Agent, I.C.C. No. 2321.

Southern Freight Tariff Bureau Freight Tariff No. 201-B, R. H. Hoke, Agent, I.C.C. No. 651.

L. & N. Railroad Tariff G.F.O. No. 18-C, I.C.C. No. A-15965.

(Continued on Page 15)

ROUTES VIA WHICH ALL-RAIL RATES UNDER JENSEN FORMULAS ARE FIGURED:

(1) - Via P.R.R. to Columbus, Ohio; B.& O. to Cincinnati; L. & N. to Memphis; J. R. Peel's I.C.C. 3339 from Memphis.

(2) - Via P.R.R. to Columbus, Ohio; N.Y.C. Lines to Dayton; P.R.R. to St. Louis; J. R. Peel's I.C.C. 3339 to Blytheville.

(3) - Via P.R.R. to Columbus; B. & O. to Cincinnati; L.& N. to Memphis; J. R. Peel's I.C.C. 3339 and 2321 beyond Memphis.

(4) - Via P.R.R. to Columbus; B. & O. to Cincinnati; L.& N. to Memphis; J.R.Peel's I.C.C. 3339 and 2321 via Vicksburg to Tallulah.

(5) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 from Memphis.

(6) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 and 2321 beyond Memphis.

(7) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Meridian; Y.& M.V. beyond Meridian.

(8) - Via N.Y.C. Lines to Cleveland; N.Y.C. Lines to Cincinnati; L.& N. to Memphis; J. R. Peel's I.C.C. 3339 from Memphis.

(9) - Via N.Y.C. Lines to Albany, Cleveland and Indianapolis; P.R.R. to St. Louis; J. R. Peel's I.C.C. 3339 from St. Louis.

(10)- Via N.Y.C. Lines to Cleveland; N.Y.C. Lines to Cincinnati; L.& N. to Memphis; J. R. Peel's I.C.C. 3339 and 2321 beyond Memphis.

(11)- N.Y.N.H.& H. to New York; (7) from New York.

(12)- Via N.Y.C. Lines to Cleveland and Cincinnati; L.& N. to Memphis; J. R. Peel's I.C.C. 3339 from Memphis.

(13)- Via N.Y.C. Lines to Cleveland and Indianapolis; P.R.R. to St.Louis; J. R. Peel's I.C.C. 3339 from St. Louis.

(14)- Via N.Y.C. Lines to Cleveland and Cincinnati; L.& N. to Memphis; J.R. Peel's I.C.C. 3339 and 2321 beyond Memphis.

(15)- Via N.Y.C. Lines to New York; P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Meridian; Y.& M.V. to Tallulah.

(16)- Via N.Y.N.H.& H. to New York; P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 from Memphis.

(Continued on Page 16)

ROUTES VIA WHICH ALL-RAIL RATES UNDER JENSEN FORMULAS ARE FIGURED (Cont'd.):

(17) - Via N.Y.N.H.& H. to New York; P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. No. 3339 and 3321 beyond Memphis.

(18) - Via N.Y.N.H.& H. to New York; (7) from New York.

(19) - Via P.R.R. to Columbus; B.& O. to Cincinnati; L.& N. to Memphis.

(20) - Via P.R.R. to Columbus; B.& O. to Cincinnati; L.& N. to Memphis; I. C. Lines from Memphis.

(21) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; L.& N. to Memphis.

(22) - (21) to Memphis; I. C. Lines from Memphis.

(23) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Meridian; I. C. Lines from Meridian.

(24) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Tuscaloosa; G.M.& O. to Columbus; C.& G. to Winona; I. C. Lines from Winona.

(25) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. to Columbus; C.& G. from Columbus.

(26) - Via P.R.R. to Washington; Sou. to Lynchburg; N.& W. to Bristol; Sou. from Bristol.

(27) - Via B.& A. to Albany; N.Y.C. Lines to Cleveland and Cincinnati; L.& N. from Cincinnati.

(28) - Via N.Y.N.H.& H. to New York; (23) from New York.

(29) - Via N.Y.N.H.& H. to New York; (24) from New York.

(30) - Via N.Y.N.H.& H. to New York; (25) from New York.

(31) - Via N.Y.C. Lines to New York; (23) from New York.

(32) - Via N.Y.C. Lines to New York; (24) from New York.

(33) - Via N.Y.C. Lines to New York; (25) from New York.

(34) - Via N.Y.C. Lines to New York; (21) from New York.

(35) - Via N.Y.N.H.& H. to New York; (21) from New York.

- 0 -

New Orleans, La.
Sept. 1, 1942

1355-C I.C.C. DOCKETS 28300 [illegible]

Witness: THORN 73

Exhibit No.: _____

Statement showing Comparison of Present Published First Class Rates in Effect Prior to Ex Parte 148 Increases of March 18, 1942, with Resulting First Class Rates Constructed under Formulas Proposed by Witness C. G. Jensen in his Exhibit No. 7, introduced at the Opening Hearing at St. Louis, Mo., July 10 and 11, 1941, to Dallas, Texas, Muskogee and Oklahoma City, Okla., Shreveport, La., and Texarkana, Ark., Representative Southwestern Points, Via All-Rail; also Via Rail-Water-Rail through New Orleans, La., and Galveston and Houston, Texas; From Pittsburgh, Pa., Albany and New York, N. Y., Boston and Springfield, Mass., Representative of Eastern Trunk Line and New England Territories.

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

	(1) PRESENT				(2) JENSEN FORMULAS			
		RAIL-WATER-RAIL VIA GULF PORTS:				RAIL-WATER-RAIL VIA GULF PORTS		
TO DALLAS, TEXAS FROM	A.R.	N.O.	Galv.	Hous.	A.R.	N.O.	Galv.	Hous.
Pittsburgh, Pa.	304	311	311	311	242	253	229	224
New York, N.Y.	360	290	290	290	301	213	189	183
Boston, Mass.	375	297	297	297	348	221	197	191
Albany, N.Y.	353	300	300	300	319	233	210	203
Springfield, Mass.	365	297	297	297	320	232	208	202
TO MUSKOGEE, OKLA. FROM								
Pittsburgh, Pa.	257	341	341	341	204	277	270	264
New York, N.Y.	314	320	320	320	266	237	230	224
Boston, Mass.	325	327	327	327	310	244	237	231
Albany, N.Y.	306	330	330	330	279	257	250	243
Springfield, Mass.	316	327	327	327	293	256	249	243

(Continued on Page 2)

FIRST CLASS RATES IN CENTS PER 100 POUNDS
(RATES DO NOT INCLUDE EX PARTE 148 INCREASES)

TO OKLAHOMA CITY, OKLA. FROM		(1) PRESENT RAIL-WATER-RAIL VIA GULF PORTS:				(2) JENSEN FORMULAS RAIL-WATER-RAIL VIA GULF PORTS:			
		A.R.	N.O.	Galv.	Hous.	A.R.	N.O.	Galv.	Hous.
Pittsburgh,	Pa.	277	341	331	331	225	285	269	263
New York,	N.Y.	331	320	311	311	287	245	229	222
Boston,	Mass.	345	327	318	318	331	252	236	230
Albany,	N.Y.	322	330	321	321	299	255	249	243
Springfield,	Mass.	337	327	318	318	314	264	248	241
TO SHREVEPORT, LA. FROM									
Pittsburgh,	Pa.	275	298	298	298	217	221	228	222
New York,	N.Y.	328	277	277	277	276	181	188	181
Boston,	Mass.	348	284	284	284	306	188	195	189
Albany,	N.Y.	328	287	287	287	278	201	208	202
Springfield,	Mass.	338	284	284	284	295	200	207	200
TO TEXARKANA, FROM	ARK.								
Pittsburgh,	Pa.	264	311	311	311	210	234	241	234
New York,	N.Y.	318	290	290	290	268	193	201	194
Boston,	Mass.	337	297	297	297	319	201	208	202
Albany,	N.Y.	318	300	300	300	293	213	221	214
Springfield,	Mass.	327	297	297	297	287	212	220	213

Explanation of Abbreviations and Reference Marks:

A.R. - All-Rail Rates.
N.O. - New Orleans, La.
Galv.- Galveston, Texas.
Hous.- Houston, Texas.

(Continued on Page 3)

Explanation of Abbreviations and Reference Marks (cont'd.):

(1) Rates are those in effect prior to Ex Parte 148 increases of March 18, 1941. All-rail rates are those published in Southwestern Lines Tariff No. 252-A, J.R.Peel, Agent, I.C.C. No. 3360. Rail-Water-Rail rates are thosepublished in Trunk Lines Tariff Bureau Freight Tariff No. 121-B, W. S. Curlett, Agent, I.C.C. No. A-732--Due to interruptions of service over which carriers have had no control, steamship services formerly used in the transportation of freight within the scope of this tariff have been temporarily suspended to the extent indicated in tariff.

(2) Jensen formulas are those proposed by Witness C. G. Jensen in his Exhibit No. 7 introduced at the opening hearing at St, Louis, Mo., July 10 and 11, 1941 - I.C.C. Dockets 28300 and 28310. Jensen formulas, and distance factors used in constructing Rail-Water-Rail rates under such formulas are shown on Witness _____ Exhibit No. _____

Routes and Distance Factors used in Constructing All-Rail Rates Under Jensen Formulas are as follows:

PITTSBURGH TO DALLAS:		Via PRR to Columbus; B&O to Cincinnati; L&N to Memphis; J.R.Peel's I.C.C. 3339 to Dallas.
Distance in 100% Zone -	292	
" " 105% " -	123	
" " 110% " -	284	
" " 120% " -	93	
" " 130% " -	463	
TOTAL----------	1,255	
NEW YORK TO DALLAS:		Via PRR to Washington; Sou. to Lynchburg; N.&W. to Bristol; Sou. to Memphis; J.R. Peel's I.C.C. 3339 to Dallas.
Distance in 100% Zone -	375	
" " 105% " -	227	
" " 120% " -	555	
" " 130% " -	463	
TOTAL----------	1,620	
BOSTON TO DALLAS:		Via NYC. to Indianapolis; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Dallas.
Distance in 100% Zone -	523	
" " 105% " -	679	
" " 130% " -	655	
TOTAL----------	1,857	

(Continued on Page 4)

BANY TO DALLAS:		Via NYC to Indianapolis; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Dallas.
stance in 100% Zone -	523	
" " 105% " -	479	
" " 130% " -	655	
TAL----------	1,657	
RINGFIELD TO DALLAS:		Via NYNH&H to New York; Same as shown from New York to Dallas.
stance in 100% Zone -	375	
" " 105% " -	361	
" " 120% " -	555	
" " 130% " -	463	
TAL----------	1,754	
TTSBURGH TO MUSKOGEE:		Via PRR to Columbus; NYC to Dayton; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Muskogee.
stance in 100% Zone -	489	
" " 105% " -	123	
" " 130% " -	425	
TAL----------	1,037	
W YORK TO MUSKOGEE:		Via PRR to Columbus; NYC to Dayton; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Muskogee.
stance in 100% Zone -	489	
" " 105% " -	562	
" " 130% " -	425	
TAL----------	1,476	
STON TO MUSKOGEE:		Via NYC to Indianapolis; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Muskogee.
stance in 100% Zone -	523	
" " 105% " -	679	
" " 130% " -	425	
TAL----------	1,627	
BANY TO MUSKOGEE:		Same lines and junction as shown for Boston to Muskogee.
stance in 100% Zone -	523	
" " 105% " -	479	
" " 130% " -	425	
TAL----------	1,427	
RINGFIELD TO MUSKOGEE:		Same lines and junction as shown for Boston to Muskogee.
stance in 100% Zone -	523	
" " 105% " -	581	
" " 130% " -	425	
TAL----------	1,529	

ITTSBURGH TO OKLAHOMA CITY:		Via PRR to Columbus; NYC to Dayton; PRR to St. Louis; J.R.Peel's I.C.C. 3339 to Oklahoma City
stance in 100% Zone -	489	
" " 105% " -	123	
" " 130% " -	541	
OTAL	1,153	
W YORK TO OKLAHOMA CITY:		Same lines and junctions as shown for Pittsburgh to Oklahoma City.
stance in 100% Zone -	489	
" " 105% " -	562	
" " 130% " -	541	
OTAL	1,592	
OSTON TO OKLAHOMA CITY:		Via NYC to Indianapolis; PRR to St. Louis; J. R. Peel'S I.C.C. 3339 to Oklahoma City.
stance in 100% Zone -	523	
" " 105% " -	679	
" " 130% " -	541	
OTAL	1,743	
LBANY TO OKLAHOMA CITY:		Same lines and junctions as shown for Boston to Oklahoma City.
stance in 100% Zone -	523	
" " 105% " -	479	
" " 130% " -	541	
OTAL	1,543	
PRINGFIELD TO OKLAHOMA CITY:		Same lines and junctions as shown for Boston to Oklahoma City.
stance in 100% Zone -	523	
" " 105% " -	581	
" " 130% " -	541	
OTAL	1,645	
ITTSBURGH TO SHREVEPORT:		Via PRR to Columbus; B&O to Cincinnati; L&N to Memphis; J. R. Peel's I.C.C. 3339 to Shreveport.
stance in 100% Zone -	292	
" " 105% " -	123	
" " 110% " -	284	
" " 120% " -	93	
" " 130% " -	321	
OTAL	1,113	
W YORK TO SHREVEPORT:		Via PRR to Washington; Sou. to Lynchburg; N&W to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 to Shreveport.
stance in 100% Zone -	375	
" " 105% " -	227	
" " 120% " -	555	
" " 130% " -	321	
OTAL	1,478	

(Continued on Page 6)

BOSTON TO SHREVEPORT:		Via NYC to Cincinnati; LAN to Memphis; J. R. Peel's I.C.C. 3339 to Shreveport.
Distance in 100% Zone -	370	
" " 105% " -	679	
" " 110% " -	284	
" " 120% " -	98	
" " 130% " -	321	
TOTAL	1,747	
ALBANY TO SHREVEPORT:		Via same lines and junctions as shown for Boston to Shreveport.
Distance in 100% Zone -	370	
" " 105% " -	479	
" " 110% " -	284	
" " 120% " -	93	
" " 130% " -	321	
TOTAL	1,547	
SPRINGFIELD TO SHREVEPORT:		Via NYNH&H to New York; PRR to Washington; Sou. to Lynchburg; N&W to Bristol; Sou. to Memphis; J.R.Peel's I.C.C. 3339 to Shreveport.
Distance in 100% Zone -	375	
" " 105% " -	361	
" " 120% " -	555	
" " 130% " -	321	
TOTAL	1,612	
PITTSBURGH TO TEXARKANA:		Via PRR to Columbus; B&O to Cincinnati; L&N to Memphis; J. R. Peel's I.C.C. 3339 to Texarkana.
Distance in 100% Zone -	292	
" " 105% " -	123	
" " 110% " -	284	
" " 120% " -	93	
" " 130% " -	278	
TOTAL	1,070	
NEW YORK TO TEXARKANA:		Via PRR to Washington; Sou. to Lynchburg; N&W to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 to Texarkana.
Distance in 100% Zone -	375	
" " 105% " -	227	
" " 120% " -	555	
" " 130% " -	278	
TOTAL	1,435	
BOSTON TO TEXARKANA:		Via NYC to Indianapolis; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Texarkana.
Distance in 100% Zone -	594	
" " 105% " -	679	
" " 130% " -	488	
TOTAL	1,691	

(Continued on Page 7)

ALBANY TO TEXARKANA:

Distance in 100% Zone - 523
" " 105% " - 479
" " 130% " - 488
TOTAL---------- 1,490

Via NYC to Indianapolis; PRR to St. Louis; J. R. Peel's I.C.C. 3339 to Texarkana.

SPRINGFIELD TO TEXARKANA:

Distance in 100% Zone - 375
" " 105% " - 361
" " 120% " - 555
" " 130% " - 278
TOTAL---------- 1,569

Via NYNHAH to New York; PRR to Washington; Sou. to Lynchburg; N&W to Bristol; Sou. to Memphis; J. R. Peel's I.C.C. 3339 to Texarkana.

Authorities for distances used in constructing All-Rail Rates Under Jensen Formulas:

The Official Guide of The Railways.

Southwestern Lines Mileage Table No. 4-D - Tariff No. 264-A, J. R. Peel, Agent, I.C.C. No. 3339.

Southern Freight Tariff Bureau Freight Distance Table - Freight Tariff No. 201-B, R. H. Hoke, Agent, I.C.C. No. 651.

L. & N. Table of Distances - Tariff G.F.D. No. 18-C, I.C.C. No. A-15965.

* * * * *

New Orleans, La.
September 1, 1947

1355-D

ICC Docket No. 28300, et al
Exhibit No. 74
Witness: W. S. Crelin
(4 sheets - sheet 1)

Analysis of LCL Traffic - Period September 8-14, 1939.

- Minimum Charges Not Included -

Mileage Analysis

Shipments Less than 10,000 Pounds

	OFFICIAL - Intraterritorial					SOUTHERN - Intraterritorial				
	Pounds	Per-cent	Thru Frt. Charges	Per-cent	Average Rate(1)	Pounds	Per-cent	Thru Frt. Charges	Per-cent	Average Rate(1)
s than 100 miles	24,179,742	9.60	$ 80,726	4.55	33.4	14,017,237	24.54	$ 36,831	10.48	26.3
& less than 200 miles	41,658,013	16.54	199,944	11.27	48	13,962,269	24.46	66,327	18.86	47.5
& less than 300 miles	42,804,670	17.00	256,359	14.46	59.9	9,939,428	17.40	60,410	17.18	60.8
& less than 400 miles	39,379,135	15.64	266,750	15.04	67.8	6,722,725	11.77	50,050	14.24	74.4
& less than 500 miles	32,590,860	12.94	250,676	14.14	76.9	4,831,351	8.46	44,792	12.74	92.7
miles and over	71,213,146	28.28	718,850	40.54	100.9	7,638,321	13.37	93,165	26.50	122
Total	251,825,568	100.00	$1,773,305	100.00	70.4	57,111,331	100.00	$ 351,575	100.00	61.6

Shipments 10,000 Pounds and Over

s than 100 miles	3,111,553	12.96	$ 6,725	5.70	21.6	8,948,376	23.12	$ 29,260	22.05	32.7
& less than 200 miles	3,005,943	12.72	10,063	8.53	33.5	18,414,801	47.58	53,489	40.31	29.1
& less than 300 miles	4,058,276	16.89	16,815	14.25	41.4	7,855,138	20.29	29,444	22.19	37.5
& less than 400 miles	3,704,775	15.42	18,498	15.67	49.9	2,300,943	5.94	11,901	8.97	51.7
& less than 500 miles	3,828,699	15.94	20,660	17.50	54	424,940	1.10	2,603	1.96	61.3
miles and over	6,263,765	26.07	45,277	38.35	72.3	760,626	1.97	5,995	4.52	78.8
Total	24,023,011	100.00	$ 118,038	100.00	49.1	38,704,824	100.00	$ 132,692	100.00	34.3
Grand Total	275,848,579		$1,891,343		68.6	95,816,155		$ 484,267		50.5

Authority: Merchandise Report; see Exhibit G, Part 15 - 16, Page 9; see Appendix to petition of Class I Railroads filed with the Commission April 19, 1940, for modification of order of Commission dated Jan. 9, 1940, calling for certain information with respect to the movement of traffic.
(1) In cents per 100 pounds.

OFFICIAL
Intraterritorial

ICC Docket No. 28300, et al
Exhibit No. 71
Witness: [illegible]
(4 sheets - sheet 2)

Analysis LCL Traffic

Period September 8 to 14, 1939, Inc.

Official Tonnage Equated on Basis of Southern Tonnage Distribution.(1)

Shipments less than 10,000 pounds

	Pounds	Percent	Thru Frt. Charges	Percent	Average Rate (2)
Less than 100 miles	61,797,994	24.54	$ 206,405	14.05	33.4
100 & less than 200 miles	61,596,534	24.46	295,663	20.13	48
200 & less than 300 miles	43,817,649	17.40	262,468	17.87	59.9
300 & less than 400 miles	29,639,869	11.77	200,958	13.68	67.8
400 & less than 500 miles	21,304,443	8.46	165,831	11.15	76.9
500 miles and over	33,669,079	13.37	339,721	23.12	100.9
Total	251,825,568	100.00	$1,469,046	100.00	58.3

Shipments 10,000 pounds and over

Less than 100 miles	5,554,120	23.12	$ 11,997	14.55	21.6
100 & less than 200 miles	11,430,149	47.58	38,291	46.45	33.5
200 & less than 300 miles	4,874,269	20.29	20,179	24.48	41.4
300 & less than 400 miles	1,426,967	5.94	7,121	8.64	49.9
400 & less than 500 miles	264,253	1.10	1,427	1.73	54
500 miles and over	473,253	1.97	3,422	4.15	72.3
Total	24,023,011	100.00	$ 82,437	100.00	34.3
Grand Total	275,848,579		$1,551,483		56.2

Reference Marks: (1) On this sheet the Official tonnage is equated so that the same proportions of the total tonnage will appear in the respective mileage blocks as in the case of the tonnage in Southern territory, as shown on Sheet 1.

(2) In cents per 100 pounds.

SOUTHERN
Intraterritorial

ICC Docket No. 28300, et al
Exhibit No. 74
Witness: A. S. CREIGHTON
(4 sheets - sheet 3)

Analysis LCL Traffic

Period September 8 to 14, 1939, Inc.

Southern Tonnage Equated on Basis of Official Tonnage Distribution.(1)

Shipments less than 10,000 pounds

	Pounds	Percent	Thru Frt. Charges	Percent	Average Rate (2)
Less than 100 miles	5,482,688	9.60	$ 14,419	3.20	26.3
100 & less than 200 miles	9,446,214	16.54	44,870	9.96	47.5
200 & less than 300 miles	9,708,927	17.00	59,030	13.11	60.8
300 & less than 400 miles	8,932,212	15.64	66,456	14.76	74.4
400 & less than 500 miles	7,390,206	12.94	68,507	15.21	92.7
500 miles and over	16,151,084	28.28	197,043	43.76	122
Total	57,111,331	100.00	$ 450,325	100.00	78.9

Shipments 10,000 pounds and over

Less than 100 miles	5,016,145	12.96	$ 16,403	8.06	32.7
100 & less than 200 miles	4,923,254	12.72	14,327	7.04	29.1
200 & less than 300 miles	6,537,245	16.89	24,515	12.05	37.5
300 & less than 400 miles	5,968,284	15.42	30,356	15.17	51.7
400 & less than 500 miles	6,169,549	15.94	37,819	18.59	61.3
500 miles and over	10,090,347	26.07	79,512	39.09	78.8
Total	38,704,824	100.00	$ 203,432	100.00	52.6
Grand Total	95,816,155		$ 653,757		68.2

Reference Marks: (1) On this sheet the Southern tonnage is equated so that the same proportions of the total tonnage will appear in the respective mileage blocks as in the case of the tonnage in Official territory, shown on Sheet 1.

(2) In cents per 100 pounds.

ICC Docket No. 28300, et al
Exhibit No. 74
Witness: A. . CREIGHTON
(4 sheets - sheet 4)

Analysis All LCL Traffic, Except Minimum Charge.

Period September 8 to 14, 1939, Inc.

Intraterritorial.

Shipments	OFFICIAL			SOUTHERN		
Pounds	LCL Class	LCL Commodity	Grand Total	LCL Class	LCL Commodity	Grand Total
Less than 10,000 pounds	240,123,465	11,702,103	251,825,568	36,922,007	20,189,324	57,111,331
10,000 pounds and over	22,298,960	1,724,051	24,023,011	3,133,232	35,571,592	38,704,824
Total Pounds	262,422,425	13,426,154	275,848,579	40,055,239	55,760,916	95,816,155
Through Freight Charges						
Less than 10,000 pounds	$ 1,715,933	$ 57,372	$ 1,773,305	$ 278,640	$ 72,935	$ 351,575
10,000 pounds and over	112,175	5,863	118,038	15,661	117,031	132,692
Total Through Freight Charges	$ 1,828,108	$ 63,235	$ 1,891,343	$ 294,301	$ 189,966	$ 484,267
Average Freight Charges per 100 Pounds						
Less than 10,000 pounds	71.5	49	70.4	75.5	36.1	61.6
10,000 pounds and over	50.3	34	49.1	50	32.9	34.3
All Shipments	69.7	47.1	68.6	73.5	34.1	50.5

Authority: Merchandise Report, Exhibit G, Part 15 and 16, Pages 7 and 8; see Appendix to petition of Class I Railroads filed with the Commission Apr. 19, 1940, for modification of order of Commission dated Jan. 9, 1940, calling for certain information with respect to the movement of traffic.

Average Freight Charges per 100 Pounds Equated				
Less than 10,000 pounds	Average Rate resulting from Official tonnage equated on basis of Southern tonnage distribution.	58.3	Average Rate resulting from Southern tonnage equated on basis of Official tonnage distribution.	78.9
Over 10,000 pounds		34.3		52.6
Grand Total		56.2		68.2

Average Rate of 56.2 in Official territory on the equated basis is 111.3 percent of the Average Rate of 50.5 in the South.

Average Rate of 68.2 in Southern territory on the equated basis is 99.4 percent of the Average Rate of 68.6 in Official territory.

25669

1355-E
C.A. MITCHELL
ONE EXHIBIT
8 PAGES

EXHIBIT NO. 75
I.C.C. DOCKET NO. 28300
WITNESS Mitchell

STATEMENT OF DISTANCES AND PRESENT FIRST CLASS RATES FROM MEMPHIS, TENN., TO REPRESENTATIVE POINTS IN STATES LOCATED IN OFFICIAL TERRITORY, AND ALSO THE FIRST CLASS RATES FOR THE SAME DISTANCES WITHIN OFFICIAL TERRITORY, AND THE PERCENTS THE PRESENT RATES FROM MEMPHIS, TENN., BEAR TO RATES UNDER THE OFFICIAL TERRITORY SCALE FOR THE SAME DISTANCES.

In Cents per 100 pounds
(Ex Parte 148 increases to be added)

To	Miles	From Memphis, Tennessee. 13494 1st	15879 1st	%
ILLINOIS				
Aurora	521	164	126	128.9
Chicago	531	164	126	128.9
Decatur	371	144	106	135.8
E. St. Louis	313	136	98	138.7
Elgin	437	167	128	130.4
Joliet	504	164	124	132.2
Peoria	444	154	130	128.4
Rockford	545	167	130	128.4
Rock Island	532	164	128	128.9
Springfield	382	144	109	132.1
Average	469.0	156.8	119.6	131.6
INDIANA				
Anderson	479	161	119	135.2
Elkhart	576	171	132	129.5
Ft Wayne	581	171	135	126.6
Gary	530	164	128	128.9
Indianapolis	443	152	117	129.9
Kokomo	482	161	122	131.9
Lafayette	456	157	117	134.1
Mishawaka	564	171	132	129.5
Muncie	519	164	124	132.2
Richmond	566	161	128	125.7
Average	515.8	163.3	125.4	130.4
OHIO				
Akron	734	194	153	126.7
Cleveland	731	194	153	126.7
Columbus	603	177	138	128.2
Dayton	541	167	130	128.4
Hamilton	512	164	124	132.2
Lima	577	177	132	134.0
Lorain	693	194	149	130.2
Springfield	566	171	132	129.5
Toledo	670	184	145	126.8
Warren	708	200	157	127.3
Average	639.9	182.2	141.3	129.0

(Continued on Sheet 2)

Sheet # 2. EXHIBIT NO. 75

(Continued from Sheet 1)

To	Miles	From Memphis, Tenn. 13494 1st	13879 1st	%
MICHIGAN				
Battle Creek	668	180	145	124.1
Bay City	790	199	160	124.3
Detroit	699	190	149	127.5
Flint	752	196	155	126.4
Grand Rapids	666	186	145	128.2
Jackson	681	187	149	125.5
Kalamazoo	620	177	138	128.2
Lansing	681	189	151	125.1
Muskegon	713	189	151	129.8
Pontiac	720	196	151	129.8
Average	699.0	188.9	149.2	126.6
PENNSYLVANIA				
Allentown	1101	243	196	123.9
Altoona	911	216	174	124.1
Harrisburg	1013	234	185	126.4
Johnstown	866	216	168	128.5
Lancaster	1036	243	187	129.9
McKeesport	800	200	160	125.0
Philadelphia	1068	243	190	127.8
Pittsburg	798	200	160	125.0
Reading	1065	243	190	127.8
Scranton	1101	243	196	123.9
Average	975.9	228.1	180.6	126.2
NEW YORK				
Albany	1199	253	204	124.0
Buffalo	912	216	174	124.1
Elmira	1031	231	187	123.7
Mt Vernon	1185	252	204	123.5
New Rochelle	1188	252	204	123.5
New York	1160	252	201	125.3
Niagara Falls	926	216	176	122.7
Rochester	976	223	182	122.5
Schenectady	1174	253	201	125.8
Syracuse	1055	231	190	121.5
Average	1080.6	237.9	192.3	123.7
NEW JERSEY				
Atlantic City	1128	252	198	127.2
Bayonne	1146	252	198	127.2
Bloomfield	1151	252	201	125.3
Camden	1073	243	190	127.8
Elizabeth	1137	243	198	127.2
Jersey City	1150	252	198	127.2
Newark	1143	252	198	127.2
Paterson	1159	252	201	125.3
Perth Amboy	1131	243	198	122.7
Trenton	1095	252	193	130.5
Average	1131.3	249.3	197.3	126.5

(Continued on Sheet 3)

(Continued from Page 2)

To	Miles	From Memphis, Tenn. 1st	1st	%
WEST VIRGINIA				
Bluefield	844	199	142	139.1
Charleston	661	190	143	132.8
Clarksburg	782	200	157	127.3
Fairmont	732	200	160	125.0
Huntington	601	180	135	133.3
Morgantown	622	200	160	125.7
Moundsville	783	200	160	125.0
Parkersburg	681	190	149	127.5
Wheeling	769	200	153	130.0
Williamson	857	190	143	132.9
Average	712.4	194.9	151.1	129.8

EXPLANATION

Tariff Authority:
Agent B.T. Jones' I.C.C. 3054
Agent J.S. Mercer's I.C.C. 485
Agent W.S. Curlett's I.C.C. A-712

Distances:
From Memphis I.C.C. Docket No. 13494 distances to Ohio River & Virginia Gateways, I.C.C. Docket No. 15979 distances beyond.

(Continued on Sheet 3)

EXHIBIT 75
I.C.C. DOCKET NO. 28300
WITNESS MITCHELL

COMPARISON OF RATES ON MACARONI, NOODLES AND SPAGHETTI, LCL

In Cents per 100 pounds

(Ex Parte 148 increases to be added)

TO	FROM MEMPHIS, TENN. MILES	A	B	C	FROM CHICAGO, ILL. MILES	A	B	C	FROM ST. LOUIS, MO. MILES	A	B	C
Brookport, Ill.	171	119	60	39	363	106	53	53	161	76	38	38
Cairo, Ill.	166	102	51	38	365	106	53	53	147	73	37	37
Cincinnati, Ohio	487	161	81	61	283	96	48	48	339	101	51	51
Evansville, Ind.	301	136	68	49	284	96	48	48	166	76	38	38
Henderson, Ky.	289	134	67	48	296	100	50	48	178	80	40	39
Kenova, W. Va.	583	180	90	68	399	109	55	55	473	119	60	60
Louisville, Ky.	377	149	75	53	291	96	48	48	264	92	46	46
Metropolis, Ill.	179	106	53	39	355	103	52	52	153	74	37	37
Mounds, Ill.	171	117	59	39	356	103	52	52	142	73	37	37
New Albany, Ind.	380	149	75	53	291	96	48	48	264	92	46	46
Paducah, Ky.	165	102	51	38	369	106	53	53	167	76	38	38
Parkersburg, W. Va.	(1)682	190	95	75	407	111	56	56	427	128	64	64
Pittsburgh, Pa.	(1)786	200	100	80	454	117	59	59	502	138	69	69
Wheeling, W. Va.	(1)737	200	100	77	417	111	56	56	564	132	66	66

EXPLANATION

A - First-Class rates

B - Present Rates -
Column 50 rates (4th Class in Official-Illinois Territory) applicable on Macaroni, Noodles and Spaghetti, LCL.

C - Column 50 rates for distances under I.C.C. Docket No. 15879 scale.

(1)- Via Cincinnati gateway.

Authority for Distances:
I.C.C. Docket No. 13494 distances from Memphis, Tenn., to gateway, actual distances beyond
I.C.C. Docket No. 15879 distances from Chicago, Ill., and St. Louis, Mo.

Tariff Authority:
Agent D.T. Jones' I.C.C. 2447, 2449 and 3630
Agent W.S. Mercer's I.C.C. 201 and 486
Agent R.H. Boke's I.C.C. 717
Agent W.S. Curlett's I.C.C. A 712

I.C.C. DOCKET NO. [illegible]
MITCHELL

COMPARISON OF RATES ON MACARONI, NOODLES AND SPAGHETTI, LCL

In Cents per 100 pounds

(Ex Parte 148 increases to be added)

TO	FROM MEMPHIS, TENN. MILES	A	B	C	CHICAGO, ILL. MILES	A	B	C	ST. LOUIS, MO. MILES	A	B	C
...gow, Ky.	296	134	67	49	(2)392	128	64	50	(1)358	125	63	51
...zabethtown, Ky.	336	143	72	51	(2)333	108	54	51	(1)304	108	53	49
...erset, Ky.	468	169	85	60	(2)429	141	71	57	(2)402	139	70	56
...chester, Ky.	470	169	85	60	(3)379	122	61	53	(2)367	125	63	53
...bin, Ky.	489	173	87	61	(2)463	149	75	60	(2)436	149	75	57

EXPLANATION

- First-class rates

- Present rates, column 50, applicable on macaroni, noodles and spaghetti, LCL

- Column 50 rates for distances under I.C.C. Docket No. 15879 scale.

) - Via Evansville, Ind., gateway.

) - Via Louisville, Ky., gateway.

)- Via Cincinnati, Ohio gateway.

...tances:
From Memphis I.C.C. Docket No. 13494 distances.
From Chicago and St. Louis I.C.C. Docket No. 13494 distances south of Ohio River gateways, and I.C.C. Docket No. 15789 distances north of Ohio River gateways.

...riff Authority:
...gent S.H. Hoke's I.C.C. 717.
...gent L.S. Mercer's I.C.C. 465.

EXHIBIT NO. 75
I.C.C. DOCKET NO. 28300
WITNESS MITCHELL

COMPARISON OF RATES ON MACARONI, NOODLES AND SPAGHETTI, LCL

In Cents per 100 pounds

(Ex Parte 148 increases to be added)

FROM

TO	MEMPHIS, TENN. MILES	A	B	C	CHICAGO, ILL. MILES	A	B	C
Elizabethtown, Ky.	335	143	72	51	(1)333	108	54	51
Fearns, Ky.	480	166	83	59	(1)480	151	76	59
Exton, Ky.	492	169	85	61	(1)490	156	78	60
Liddlesboro, Ky.	493	173	87	61	(1)507	158	79	62

EXPLANATION

- [redacted]-class

- Present rates, Column 50, applicable on macaroni, noodles and spaghetti, LCL.

- Column 50 rates under I.C.C. Docket No. 15879 scale.

1) - Via Louisville, Ky., gateway.

Distances:
From Memphis I.C.C. Docket No. 13494 distances
From Chicago I.C.C. Docket No. 13494 distances south of Ohio River crossing, and I.C.C. Docket No. 15879 distances north of Ohio River crossing.

Tariff authority:
Agent M.H. Hoke's I.C.C. 717.
Agent J.S. Mercer's I.C.C. 485.

EXHIBIT NO. 75
I.C.C. DOCKET NO. 29300
WITNESS MITCHELL

COMPARISON OF RATES ON MACARONI, NOODLES AND SPAGHETTI, LCL

In Cents per 100 pounds

(Ex Parte 148 increases to be added)

FROM	TO	MILES	A	B	C	D	E
Memphis, Tenn.	Indianapolis, Ind.	448	152	76	59	100	100
Chicago, Ill.	Pittsburg, Pa.	454	117	59	59	102	78
St. Louis, Mo.	Portsmouth, O.	445	119	60	59	101	80
Memphis, Tenn.	Hamilton, O.	512	124	62	62	100	100
Chicago, Ill.	Batavia, N.Y.	531	124	62	62	103	76
St. Louis, Mo.	Cleveland, O.	522	128	64	64	102	78
Memphis, Tenn.	Coulterville, Ill.	263	131	66	46	100	100
Chicago, Ill.	Ashley, Ill.	266	92	46	46	101	70
St. Louis, Mo.	Logansport, Ind.	266	92	46	46	102	70
Memphis, Tenn.	Anna, Ill.	199	121	61	40	100	100
Chicago, Ill.	Effingham, Ill.	199	80	40	40	100	66
St. Louis, Mo.	Greencastle, Ind.	202	83	42	40	101	69
Memphis, Tenn.	Metropolis, Ill.	179	106	53	39	100	100
Chicago, Ill.	Neoga, Ill.	184	79	40	40	104	75
St. Louis, Mo.	Washington, Ind.	170	76	38	39	95	72
Memphis, Tenn.	Evansville, Ind.	301	139	70	49	100	100
Chicago, Ill.	Evansville, Ind.	284	96	48	48	94	69
St. Louis, Mo.	Richmond, Ind.	309	98	49	49	105	70

EXPLANATION

A - First-class rates (Present Rates

B - Class 50 rates (4th Class in Illinois-Official Territory), applicable on macaroni, noodles and spaghetti, LCL.

C - Column 50 rates under I.C.C. Docket No. 15879 scale.

D - Percentage of distance using Memphis as 100%.

E - Percentage of rate using Memphis as 100%.

Tariff Authority:
Agent R.H. Hoke's I.C.C. 717
Agent W.S. Mercer's I.C.C. 201, 485 and 489
Agent B.T. Jones' I.C.C. 3636, 3642, 2447 and 2448

2356vv

EXHIBIT NO. 75

I.C.C. Docket No. 15879

MITCHELL

COMPARISON OF RATES ON MACARONI, NOODLES AND SPAGHETTI, LCL
In Cents per 100 pounds
(Ex Parte 16[illegible] increases to be added)

TO	FROM MEMPHIS, TENN. MILES	A	B	C	FROM CHICAGO, ILL. MILES	A	B	D
St. Louis, Mo.	(1)313	136	68	44	270	92	46	x51 y43
Benton, Ill.	(1)245	129	65	45	290	96	48	48
Brookport, Ill.	(1)171	119	60	39	363	105	53	53
Cairo, Ill.	166	102	51	38	365	106	53	53
Carbondale, Ill.	(1)223	127	64	43	308	98	49	49
Eldorado, Ill.	(1)244	127	64	46	298	96	48	48
Johnson City, Ill.	(1)232	129	65	44	303	98	49	49
Joppa, Ill.	(1)204	121	61	42	365	103	52	52
McClure, Ill.	(1)199	123	62	40	349	103	52	52
Marion, Ill.	(1)227	125	63	43	309	98	49	49
Metropolis, Ill.	179	106	53	39	355	103	52	52
Mound City, Ill	(1)174	117	59	39	360	103	52	52
Murphysboro, Ill.	(1)228	127	64	43	313	98	49	49
Pickneyville, Ill.	(1)251	129	65	45	290	96	48	48
Thebes, Ill.	(1)192	119	60	40	357	103	52	52
West Frankfort, Ill.	(1)230	129	65	44	297	98	48	48

EXPLANATION

A - First-Class rates

B - Present rates. Class 50 rates (4th Class in Illinois-Official Territory), applicable on macaroni, noodles and spaghetti, LCL.

C - Column 50 rates under I.C.C. Docket No. 15879 scale.

D - Present commodity rates on macaroni, noodles and spaghetti, LCL.

x - Applies between, or less than 10,000 pounds.

y - Applies between, or minimum weight of 10,000 pounds.

(1) - Via Cairo, Ill., gateway.

Distances:
From Memphis I.C.C. Docket No. 13494 distances to gateway, and I.C.C. Docket No. 15879 distances beyond.
From Chicago I.C.C. Docket No. 15879 distances.

Tariff authority:
Agent R.E. Hoke's I.C.C. 717
Agent [illegible].S. Mercer's I.C.C. 485, 489 and 538

[fol. 1357] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 28300

CLASS RATE INVESTIGATION, 1939

Docket No. 28310

CONSOLIDATED FREIGHT CLASSIFICATION

Claypool Hotel,
Indianapolis, Indiana,
September 28, 1942.

Met, pursuant to adjournment, at 9:30 o'clock A. M.

Before Division 2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner,

Hon. J. Haden Alldredge,

And a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances: As heretofore noted.

Proceedings

Chairman Aitchison: We will resume the hearing. Come [fol. 1358] to order, please. Whom do we hear next?

Mr. Norman: I understand, Mr. Chairman, that the carriers have rested and under the plan we have had among

urselves, the Tennessee Valley Authority will proceed ow.

Chairman Aitchison: Before the Tennessee Valley Authority proceed, I understand that there is no desire, Mr. Jackson, to cross examine Mr. Vivian. Is that correct?

Mr. Jackson: That is right, sir.

Chairman Aitchison: Mr. Vivian, therefore, may be excused. Who appears for the Tennessee Valley Authority?

Mr. Charles McCarthy: I have one witness, Mr. Spotswood. Before proceeding with the testimony of the witness, I would like, if I may, to amplify very briefly my previous statement as to the interest and position of the Tennessee Valley Authority in these proceedings. The Tennessee Valley Authority as a Government agency has no interest in these proceedings in the ordinary sense of the term. We have, however, prepared certain studies which appear to be pertinent to the issues in this proceeding, which we hope may be of some value to the Commission. For that reason, we are appearing here more or less as a friend of the Court for the purpose of presenting the results of those studies for whatever value they may be to the Commission. Mr. Spotswood has a prepared statement which was distributed last Saturday. Be sworn, Mr. Spotswood.

Chairman Aitchison: Raise your right hand.

A. D. Spotswood was sworn and testified as follows:

[fol. 1359] Direct examination.

By Mr. Charles McCarthy:

Q. Will you give your name and address for the record, please, Mr. Spotswood.

A. A. D. Spotswood, Knoxville, Tennessee.

Q. You are an employee of the Tennessee Valley Authority?

A. I am.

Q. What position do you occupy?

A. I am Chief of the Transportation and Industrial Economics Division.

Q. In what fields of economics have you specialized?

A. Transportation and industrial economics. For the past ten years I have specialized in the analysis and interpretation of economic data in these fields.

Q. Where did you receive your academic training?

A. I received a B. S. degree in economics at the University of Alabama in 1921.

Q. In the course of your duties in your present position, have you made certain studies relative to the effect of existing class rate structures on the economy of the Tennessee Valley?

A. I have.

Q. And the south and west generally?

A. I have.

Chairman Aitchison: Just a minute, please, Mr. McCarthy.

By Chairman Aitchison:

Q. You say you are a specialist in transportation eco- [fol. 1360] nomics. That subject breaks up into several distinct branches. What one or ones of them have you specialized in?

A. Mr. Chairman, my work with the Authority has been the analysis of the effect of transportation on the economy of the Valley Region, particularly.

Q. You have not specialized, then, in the operation, location or construction with respect to the traffic end of the subject?

A. No, sir.

Chairman Aitchison: Proceed.

By Mr. Charles McCarthy:

Q. You have before you, Mr. Spottswood, an exhibit of 37 pages, consisting of tables, charts and appendices?

A. Yes, sir.

Q. Was this exhibit prepared under your direction and supervision?

A. It was.

Q. Are the facts stated therein true to the best of your knowledge and belief?

A. They are.

Mr. Charles McCarthy: I would like to have this exhibit marked for identification, if the Chairman please.

Chairman Aitchison: This exhibit will be marked for identification as No. 76.

[fol. 1361] (Exhibit No. 76, Witness Spottswood, marked for identification.)

By Mr. Charles McCarthy:

Q. Do you have a prepared statement setting forth the results of the studies to which you referred?

A. I have.

Q. Proceed.

A. At the very outset I should like to make it clear that I am not a rate expert and that I do not propose to discuss technical rate questions. I intend to discuss the economic consequences of the regional disparities in existing class-rate structures and to show that these regional inequalities are unwholesome in that they help to perpetuate an economic maladjustment which interferes with the orderly development of the resources of the south and west, and, through them, of the whole nation. For convenience, I shall refer to Southern, Southwestern, and Western Trunk Line territories collectively as the South and West.

I shall discuss the following propositions in order: first, the marked degree of specialization as among the several regions or rate territories establishes a relationship between Official territory and the South and West which is substantially that of mother country and colonies. Second, regional and national objectives of full employment, full production and maximum national income will not be [fol. 1362] achieved as long as the present regional specializations survive in the existing exaggerated degree.

Third, the disparity in class rate levels tends to perpetuate present regional specializations, thereby keeping the South and West tied to their long-time overdependence on raw materials production. Fourth, the continued piecemeal adjustment of class rates will not adequately serve the needs of the nation. What is needed is a comprehensive readjustment designed to free the potential productive resources of all the regions.

The first major point I wish to bring out is the relationship of the specializations in the several parts of the country. This I will do in two ways, first, by a brief discussion of predominant occupations, and second, by a fairly detailed analysis of the traffic of the several regions. Many of the statistics I shall use are reported only by states not by rate territories. For this reason, I shall refer throughout to the nearest group of whole states as though they were the actual territories. The groupings I have used

appear in chart I, captioned Railroad Freight Rate Territories. That is on page 1 of my exhibit.

The necessity of assigning the whole of territory-divided states to a single territory produces some slight distortions in the figures of absolute quantity. The matters which I am going to bring out, however, have to do with relation- [fol. 1363] ships rather than exact quantities, and tests I have applied to the data show that the assignments I have made have but little effect on these relationships.

Of the five territories, Official is much the most intensively developed. With only 16 per cent of the national land area, its 1940 population was 53 per cent of the national total. By contrast, the South and West, with 48 per cent of the land area, had 37 per cent of the population—Southern 13 per cent of the land area and 16 per cent of the population, Southwestern 14 per cent of the land area and 10 per cent of the population, and Western Trunk Line 21 per cent of land area and 11 per cent of population.

As part B in table 1 of the exhibit shows, Official had nearly 55 per cent of all persons gainfully employed in the United States; but it had about 69 per cent of the persons employed in manufacturing industries.

In sharp contrast to its high position in population, total employment, and manufacturing employment, Official territory has only about 29 per cent of the persons engaged in the so-called extractive occupations, that is, agriculture, forestry, fishing, and mining—the people who produce the foodstuffs and industrial raw materials. Official territory does have important raw materials, resources and production, but they are definitely subordinate, accounting for only about 11 per cent of the total employment in the region. [fol. 1364] Official is thus high in manufacturing, low in raw materials production. The exact opposite is true of the South and West, which have 36 per cent of total national employment and 62 per cent of employment in extractive occupations, but only 23 per cent of the employment in manufacturing. In the South and West, raw materials production is predominant; manufacturing is subordinate.

The final column of table 1 is devoted to trade and service, the importance of which is indicated by the fact that the occupations included in this category give employment to as many people as all other occupations combined. Official territory has something more than its proportionate

share of the employment in trade and service; the South and West somewhat less than a share in proportion to their total population.

The part of table 1 marked D is in effect a summary of the whole table. It shows the density of workers in each type of occupation. Each territorial figure in part C is expressed as a per cent of the national average. These occupational specializations naturally result in a net exchange of Official territory manufacturers for southern and western raw materials. This is brought out by an analysis I have had made of the freight traffic of the several regions. There are no complete and precise data on the flow of traffic over any considerable period of time, but a sample suffi- [fol. 1365] ciently accurate for purposes of economic demonstration can be obtained from the carload freight statistics reported by the Bureau of Statistics of this Commission in its statement No. Q-550, entitled Tons of Revenue Freight Originated and Tons Terminated in Carloads by Classes of Commodities and by Geographic Areas—Class I Steam Railways. My analysis deals with the figures for 1940; I have also analyzed the figures for 1941 and they show the same general relationships.

Part I of table 2 shows the absolute tonnages originated and terminated. Part II measures the relative importance of each territory's tonnages in the national total. Part III shows the relative importance of each commodity group in the individual territory totals. Part IV is the ratio of originations to terminations. In tonnage, Official territory originated 608,508,000 tons and terminated 663,779,000. As part IV of the table shows, Official originations were only 92 per cent of its terminations. In the South and West, by contrast, originations were 32 per cent greater than terminations.

Regional specializations begin to show in the breakdown by kinds of commodities, which follows the commodity statistical classification of this Commission. In contrast with every other major class of freight, Official territory originates a greater tonnage of manufacturers and miscellaneous freight than it terminates. The South and West, [fols. 1366-1367] however, had an excess of manufactures terminations, and an excess of originations in every other kind of freight. The net exchange between Official territory and the South and West is therefore manufactured

goods for raw materials, foodstuffs, and other commodities only one or two simple stages beyond raw materials.

As it is to be expected in an exchange of manufactured goods for raw materials, the traffic between Official territory and the South and West is in large measure a trade of comparatively small quantities of high-unit-value goods for larger quantities of low-unit-value goods. To bring this point out, the interregional traffic balances—that is, the net figure derived by subtracting terminations from originations—have been broken down into value groups and summarized in table 3, captioned Interregional traffic balances, 1940: value composition. In this table the minus signs indicate a net inbound balance and the plus signs a net outbound balance. Looking at the uppermost group of figures in the first column, it will be noticed that Official territory had a net inbound movement or balance of 55 million tons in freight worth less than $50 per ton, and that it also had a slight inbound balance—less than one million tons—in goods valued between $50 and $150, but that the territory had an outbound balance in goods worth more than $150. The opposite appears for the South and West, with a large outbound balance amounting to 79 million tons in goods worth less than $50, and an inbound [fol. 1368] balance of goods worth more than $50.

The relative "export" and "import" positions in manufactured goods are shown in the final column. Even in manufactured goods, Official territory had an inbound balance in goods worth less than $50; but it had a substantial outbound balance in goods worth between $50 and $150, and a still larger one in goods worth more than $150. Once again, the exact opposite appears in the figures for the South and West. It is perhaps worth special mention that Southwestern territory's outbound or plus-balance of more than five million tons in manufactured goods worth less than $50 per ton would become a substantial inbound or minus-balance if refined petroleum products were eliminated.

In the next step of the analysis, the net tonnage balances for the several territories have been converted into what I shall call for convenience "export", that is, plus, and "import", or minus dollar balances. The results are shown in table 4, captioned Interregional traffic balances, 1940: tonnage, value, and value added by manufacture.

This table was constructed with the same regional groupings used in the others; and the smallest unit of determination is the Commission's system of commodity classes, of which there are 157. It may be helpful if I go a moment into exactly how the table was constructed. As an example, there are 62 commodity classes in the Manufactures and [fol. 1369] Miscellaneous group. Of these classes, Official territory had 30 with net outbound balances, and the aggregate of these balances is the 10,627,000 tons which appears as the second figure from the top in the first column. The remaining 32 Manufactures and Miscellaneous classes showed inbound balances for Official territory amounting to the 8,332,000 tons—second figure down in the first column under the subcaption "Balance of Commodity Groups Net Inbound." All three sets of three columns each in this table are net figures. The 10,627,000 tons I mentioned in the first column is an excess of originations over terminations and the 8,332,000 tons shown further across the page is an excess of terminations over originations. The final set of columns headed "Net balance: outbound minus inbound" shows the final net figures: 10,627,000 tons minus 8,332,000 tons equals the plus-2,295 tons shown there.

The columns headed "Value" are the results of multiplying the tonnage in each of the 157 commodity classes by its average unit value at point of production and totaling the results for Manufactures and Miscellaneous and for All other commodity groups. The columns headed "Value added by manufacture" were derived by multiplying the tonnage in each of the classes by the value added by maufacturing. The bases of unit value and value added by manufacture are shown in detail in Appendix A of the exhibit.

This table is not intended as a complete statement of [fol. 1370] the balance of trade among regions. However, Class I carload freight is so large a proportion of the total freight transported in the United States that it represents fairly well the balance of exchange in physical commodities, in so far as such a balance can be derived from available figures on rail-borne tonnage and value.

As the "Net balance: value" column, second from the last on the page, shows, Official territory in 1940 was an "import" region by $742,627,000. Official territory, how-

ever, had an "export" balance of manufactured goods amounting to $1,555,264,000. In this "export" of manufactures and "import" of all other goods, Official territory is unlike any other. The South and West had an "export" balance of $1,597,996,000 in non-manufactured goods, but their balance in manufactured products was "import" or net inbound by $1,564,493,000. Furthermore, the outbound manufactured goods tonnage balance of Southwestern territory, which I mentioned a few moments ago as being caused by the mass movement of refined petroleum products, becomes an "import" or inbound value balance of $517,371,000. That is shown in the 1941 line in the second to the last column. In manufactured goods, all the territories except Official are "debtor" regions.

Before discussing the columns headed "Value added", I would like to stress the importance of value added by [fol. 1371] manufacturing. The manner in which this value is created is significant. The exchange values of goods created in a region depend on the kind of uses the people of that region make of the available land, labor, and capital. Value is a built-up thing. The first portion of value is a return for the use of land. The process of building up then commences. The first addition is the income produced in extracting a mineral resource or in planting, cultivating, and harvesting an agricultural crop.

The building up process may stop at this stage, or it may go much further, to include transportation, manufacturing into higher orders of goods, and distributing the products. Each link in the chain of value added is income for someone, whether it be a compensation for a personal service such as a day's labor, a rent for the use of land, or a return on invested capital. Obviously, the longer and more complex the value-adding chain is before products are shipped out of a region, the more income will be created by the people of that region, and the more favorable will be its balance of trade with the rest of the nation.

Among those values added after the crop is harvested or the raw materials dug out of the ground, the ones which come from the physical or chemical processes of manufacturing are especially important. In 1939, the latest year for which Census of Manufactures reports are avail- [fol. 1372] able, 35 per cent of the total paid-out national income from all sources was created or added by manu-

facturing—a figure representing the ratio of value added by manufacture to national income, both as reported by the Department of Commerce. Let me stress the fact that the 35 per cent does not include income received by farmers or other raw materials producers at one end of the production chain or by distributors and dealers at the other. It comes from the acts of manufacturing alone.

In 1939, such manufacturing-added values accounted for 42 per cent of the total income in Official territory, but only 24 per cent in the South and West. That is, while manufacturing income plays an important part in the national economic life, its place is especially important in Official territory. Furthermore, secondary sources of income—business, finance, trade, and professional services of all kinds—tend to develop where diversified manufacturing has developed. The demand for services as widely diversified as legal counsel and laundry service is greatest in industrial communities. So while the immediate effect of manufacturing in Official territory is to produce 42 per cent of the regional income, the full effect is much greater.

The seeming anomaly in table 4 of "Value added by manufacture" for commodity groups other than Manufactures and Miscellaneous arises in a difference between the Commission's statistical classification and the Census of [fol. 1373] Manufacturers definition of "manufacture". Thus, flour, fresh meats, and lumber all are the results of manufacturing operations, but in the Commission classification these commodities are a Product of Agriculture, an Animal Product, and a Product of Forests. This difference in practice of course has no effect on the totals shown in table 4.

With this preamble I call attention to the columns in table 4 headed "Value added by manufacture". Inspection of the figures shows that Official Territory, much more than the others, has been able to add values to the things its enterprises produce—that is, to create employment for men and money—before pouring its products into the streams of interregional trade. Official territory has a large inbound tonnage balance and a fairly considerable "import" balance in point of total value, but as the last column of the table shows the manufacturing-added values in the goods Official territory sells to the other regions exceeds such values in the goods it buys from other regions

by $346,750,000. The South and West, with a large outbound tonnage and a small "export" value balance, show the opposite tendency.

From this analysis there emerges a principle that has frequently been observed, namely, that the regionalization of production in the United States falls into the pattern of mother country and colonial dependencies. Official territory, the center of manufacturing, trade, and services, [fol. 1374] obtains raw materials in large quantities, intensively adds to their values, and sells them back as high-unit-value manufactured goods. Conversely, the South and West must look to Official territory both as the principal market for their agricultural products and raw materials, and as the major source of supply for finished manufactures.

The detailed ways in which this regionalization of production come into being and is maintained are not in issue here except as the present regionalized structures of freight rates tend to perpetuate it. Before completing my testimony, I shall endeavor to show that the freight rates are a strong force in maintaining the status quo.

The sharp variation from region to region in exchange values and manufacturing-added values shows up still more clearly when expressed in amounts per ton, as has been done in table 5, captioned Interregional traffic balances, 1940: unit value and value added by manufacture. On the average, the kind of goods that Official territory sells to other parts of the country have a value of $125.77 per ton. For the South and West, the average value per outbound ton is only $24.32.

The differences are even more striking in the manufacturing-added values that contribute so heavily to the national income, and especially to the income of Official territory. Thus the average ton outbound from Official terri- [fol. 1375] tory embodies manufacturing-added values of $54.69, which is about 13 times as great as the $4.19 value added to the average ton outbound from the South and West.

The point I am trying to bring out is that Official territory ships goods to the South and West only after intensively enhancing their value. The South and West ship to Official territory far short of this point.

By Chairman Aitchison:

Q. What is there about table 5 that shows any such values?

A. Table 5, sir, is derived from table 4 dividing the tonnages and the value. That is merely another way of expressing the same thing. It brings it out a little more clearly.

Q. I can look back to appendix A, I suppose, and find out what the source is of the value, but can you tell me?

A. The sources of value are the Commission's Bureau of Statistics statement 4045. They are the value at the point of production. Does that answer your question?

Chairman Aitchison: Yes. Proceed.

The Witness: The South and West have developed some industries but these industries are generally producers of rather basic manufactured goods such as feed into factories elsewhere, where they are much more intensively fabricated and processed. Most of the production of aluminum ingot and aluminum sheets, for instance, is in the Southeast. But the aircraft industry and other intermediate and [fol. 1376] final fabricators of aluminum are located principally in the northeastern states and along the West Coast. The largest southern industry is cotton textiles. Although this industry above all others in the south has reached maturity, much of its products go into other regions for further finishing and manufacture. The south has virtually no production of textile machinery, though it has a large part of the national market and all the materials needed for the production of such machinery. The south is a great producer of heavy chemicals, but these chemicals also go largely to industries outside the region for actual combination into end-products. The same situation exists with respect to many other products.

The south's present industrial development is made up mainly of first-stage and second-stage industry—that is, industry tributary to factories elsewhere which do most of the intensive fabricating and creating of income. The tragic effects of the south's long-time dependence on cotton, corn, and tobacco has long been known. The industries of the region have now reached a stage of development where greater diversity of industrial production

is needed in almost the same degree as diversification in agriculture. The same is true of the west.

That brings me to my second main proposition. For a number of years our national economy has been out of [fol. 1377] balance, in that the proportion of the people employed in the production of staple agricultural commodities and other raw materials is greater than is necessary to serve the people's needs. This broad occupational maladjustment takes the form of an overdependence on raw materials in the South and West. That overdependence is costly both to these regions and to the country as a whole.

The evidence of maladjustment shows up very plainly in the comparative income statistics for the various states, regions, and rate territories. The income figures for 1940 and 1929 are brought out in table 6, captioned "Territorial division of the national income, 1940, and levels of income, 1940 and 1929." The relationships between regions which are shown for these two years would be substantially the same in any recent year.

It is true that these figures do not include income which never passes through a market and therefore does not get counted—such things as the value of the farmer's shelter, for instance, and the food he grows for himself. With due allowance on this account, however—it is clear that the real income, that is the standard of living, is very much higher in Official territory than it is in the South and West. In dollars, as shown here, the income per gainfully occupied persons is 53 per cent lower in Southern than in Official; that is, $940 is 53 per cent lower than $1988 [fol. 1378] for Official territory as shown under average dollar income per person employed in 1940. It was 41 per cent lower in Southwestern than in Official, and 29 per cent lower in Western Trunk Line.

The differences in regional income can largely be explained by differences between the manner in which Official territory people and southern and western people earn their livings. As I have already brought out, Official territory specializes heavily in manufacturing, trade and services. The South and West are much more dependent on agricultural commodities and other raw and simple materials. Between these differences in specialization and the levels of income there is a tremendously significant relationship.

To bring that relationship out, I call attention to Chart II, captioned "Depressing effect of raw materials specialization on the income level. Chart No. 2 is shown on page 9 of my exhibit. Vertical distances on this chart are in proportion to per capita income. Thus the highest symbol —it actually runs off the limits of the page—is in the upper left-hand corner, representing the District of Columbia with a per capita income of $1063 in 1940.

Chairman Aitchison: I wonder if that is because we do not specialize in raw materials, but rather manufacture in the District of Columbia.

By Chairman Aitchison:

Q. What do we manufacture?

[fol. 1379] A. It is a lack of dependence on raw materials.

Q. It cannot be manufacturing, can it?

A. They manufacture a lot of Government reports and things up there.

Q. Then the value of those must be very high, is that not so?

A. Yes, sir. That, in my opinion, is due to the rather substantial amount of Government payments for the same, for manufacturing the reports.

Q. You might just as well have left that off. That is a peculiar thing, and unique, is it not?

A. Yes, it is. It is a rather extreme case.

Chairman Aitchison: Proceed.

The Witness: The lowest point in the chart represents Mississippi, with $220. Horizontal distances are in proportion to the percentage of the employed population engaged in activities connected with the production of raw materials—that is, in agriculture, forestry, fishing, and mining combined. With the lowest such proportion, the District of Columbia is the farthest point to the left, and with the highest proportion in raw materials, Mississippi is the farthest to the right.

The significance in chart II lies in the very clear downward slope of income as dependence on raw materials increases. Since other conditions affect the level of income, [fol. 1380] this is of course an oversimplification. But it demonstrates an inescapable principle. Income expectations decline with increased emphasis on raw materials.

Or to state the converse, income expectations improve as other activities supplant or supplement the production of raw materials.

While the relationship between income and kind of occupation is clear, there are of course some individual departures from the general rule. Nevada, Wyoming and Montana, for instance, all have high incomes in spite of their also being high in dependence on raw materials. These states are in some ways very different from the bulk of the United States. The exception is therefore not surprising. But in the mass the states do not depart from the general rule. It will be noticed that a horizontal line has been drawn a little more than half-way up the chart. It represents the national average per capita income, which was $579 in 1940. The vertical line about one-third of the way across from the left represents the national average proportion of the population dependent on the production of raw materials—20.8 per cent in 1940. Only one state, Nevada, is very much above average in income and also above average in raw materials, and only two, Maine and Florida, are very much below average in income even though they are also below average in raw materials. The overwhelming remainder of the states conform rather closely to the rule.

[fol. 1381] Another thing this chart brings out is that every state above average in income lies either in Official territory, where the class-rate levels are lowest, or in Mountain-Pacific territory, which is not involved in this proceeding. Without exception, the states of the South and West are below average in income. I do not mean to imply that the regionalization of class rates is solely responsible for the high dependence on raw materials in the south and west or for the relatively low income in these regions but only that these conditions are definitely related.

Such evidence as that contained in chart II suggests very strongly that the prospects for increased income in the South and West do not lie in the increased production of things these regions are already producing in mass quantities. The South can hardly hope to erect a higher and more stable prosperity, to contribute more heavily to the national income, by stepping up its production of cotton. We have so much now that we can scarcely find places to store the surplus. By the same token it will not help the West to increase its production of grain.

In drawing the conclusion that there is a considerable national need to shift resources and energies away from the raw materials occupations into other occupations, I am stating a principle that is accepted by most students of the national economy. Here, for instance, is a statement of the [fol. 1382] agricultural point of view taken from the testimony of George Farrell of the Bureau of Agricultural Economics before the Tolan Committee on National Defense Migration in February of this year.

Chairman Aitchison: Now, I wonder if you want to put in that next statement? Mr. Farrell is not here as a witness and cannot be cross-examined on this, unless this witness accepts this as his own statement.

Mr. Charles McCarthy: I think that is just a reference to an authority in the field. If the Chairman thinks it is improper, we will be glad to strike it.

Chairman Aitchison: If the testimony of Mr. George Farrell in any respect is proper, the parties are entitled to have the whole testimony in, and it is not produced here.

Mr. Charles McCarthy: It is a quotation from an official report.

Chairman Aitchison: No. It is a quotation from his testimony. This witness derives his authority from Mr. Farrell.

Mr. Charles McCarthy: That is true.

Chairman Aitchison: What Mr. Farrell's qualifications are, we do not know. If this gentleman wants to adopt it as his testimony, he can go ahead with it. It has to derive its authority from his competency and not from that of Mr. Farrell, because Mr. Farrell is not here.

[fol. 1383] Mr. McCollester: Mr. Chairman, I move to strike the previous sentence of the witness' testimony to the effect that he is stating a principle accepted by most students of the national economy. I think that is highly improper.

Chairman Aitchison: No. I think that is perfectly proper. He has qualified as a professional economist, and it certainly is competent for him to state what the general view of his profession is, subject, of course, to testing as to what the basis for his opinion is.

Mr. Charles McCarthy: This testimony of Mr. Farrell's, Mr. Chairman, is included in the official report of the Tolan Committee.

Chairman Aitchison: Why do you not produce that report?

By Mr. Charles McCarthy:

Q. Do you wish to adopt that as your own testimony, Mr. Spotswood?

A. I do not think I will adopt that.

Q. Very well. We will just omit that.

Mr. Porter: Mr. Chairman, I object to the next sentence, that what Mr. Farrell says would probably be subscribed to by most agricultural leaders.

Mr. Charles McCarthy: We will omit that also.

Mr. McCollester: In connection with my objection, Mr. Chairman, I would like to cross-examine the witness as to his competency to state what has been accepted by most students of the national economy. I will do it now or later, [fol. 1384] as your Honor rules.

Chairman Aitchison: I think it ought to be done later. He is qualified sufficiently.

Mr. McCollester: Until later?

Chairman Aitchison: Yes.

By Mr. Charles McCarthy:

Q. Proceed, Mr. Spotswood.

A. Among the raw materials occupations, agriculture is by far the largest, employing about nine times as many persons as all the others combined. Most of my remarks on the question of readjusting the national economy to a more useful and more productive basis will therefore be pointed to agriculture.

In agriculture, two kinds of reform are possible and both are needed. The first is a partial substitution of fruits and fresh vegetables, milk and other dairy products, poultry, and meat animals for traditional southern cotton, western grain, and other over-produced staples. There is room for an increase in perishable foodstuffs. Now that purchasing power flows freely, vast surpluses of cotton and grain still go into storage, but there are real scarcities and a strong tendency to rising prices in such things as wool, meat, poultry, butter, eggs, and fresh milk. The expanding demand for such things arises not only out of the demands of the military and naval forces and of Lend-Lease, but also out of the fact that the national diet has actually been

[fol. 1385] materially short of the balance and variety that it should have.

The shift within agriculture, however, cannot do the whole job. Under modern farm production techniques the entire population of the country could be properly fed, and there would still be a surplus of human beings in the South and West that agriculture could not comfortably employ. In the southeastern states the surplus of farm population is particularly acute because the average farm unit is too small to produce a decent living. The magnitude of the needed shift of population out of agriculture is suggested in a Bureau of Agricultural Economics estimate that agricultural production equal to the high output of 1929 could have been achieved comfortably in 1940 by 19 per cent fewer persons than were actually farming in 1940.

It is evident, then, that it is sound public policy to clear the way so that large numbers of persons, especially in the South and West, where pressure of population on farm land is greatest, can move out of agriculture into other occupations. That means in the first place that there must be more industrial jobs to absorb some of the people. At this point I might state the rather obvious proposition that the people's desire for more manufactured goods—is much further from satisfaction than their desire for such things as cotton and cereal grains. The potential demand for manufactured goods is almost limitless, and much untapped [fol. 1386] demand will, I believe, be made effective by measures taken to maintain full employment after the war. Unless we do achieve full employment, or something closely approaching it, any other measures of public economic policy will of course be nullified, for the basic economic problem on which all others rest is the adjustment of power to consume with the power to produce.

With the expansion of manufactured goods after the war for peaceful uses will naturally come an expansion of other enterprises. The production of new goods creates demands for transportation service and other public utilities. It creates opportunities for merchants, bankers, lawyers, and so forth. It also creates an augmented demand for services of all sorts—the retailing of gasoline, for instance, and medical, dental, legal, educational and other services. These so-called distributive and service occupations, however, can expand only on an expanding base of physical pro-

duction. As I have stated, profitable physical expansion is barred in large realms of agriculture and other raw materials. Hence we must seek ways to expand the other kind of physical production, that is, of manufactured goods. When we succeed in that undertaking, the distributive and service occupations may be counted on to expand with them.

To sum up, any expansion in manufacturing has a tendency to cast benefits in two directions. First, it improves [fol. 1387] the market for agricultural commodities and other raw materials, and at the same time draws surplus population from these occupations, so that the net effect is to leave the remaining people engaged in farming, forestry, and mining materially better off than they were before. Second, industrial development creates new purchasing power which encourages the rise of all kinds of trade and service enterprises.

On the need for augmented industrial development in the United States, there is probably little or *do* disagreement. A question that immediately arises, however, is whether the expanding national industrial establishment should come into being along present geographic lines or somewhat different ones. If present tendencies are continued, Official territory, which has about three-quarters of all existing industrial activity, will account for a similar or even greater proportion of the amount by which industry in the country expands. For reasons that I shall bring out, however, the present trend should not be further encouraged.

By Chairman Aitchison:

Q. What have you shown us in your exhibit which shows a trend?

A. (No answer.)

Q. As I have looked your exhibit through, it seems to me to present a momentary picture rather than a picture of trends. Have I overlooked something?

[fol. 1388] A. Well, we are presenting this rather as representative of conditions. We have not attempted to go back several years, but I believe most of the data presented now would bear the same relationships. As to whether the absolute figures would remain the same or not—they certainly will not.

Q. I am trying to find out where you show what the trend is.

A. In my table I, I have attempted to show occupational specializations and then by succeeding tables analyzing the traffic I show what the net exchange of those regions was, and that presents a picture of the situation as it existed in 1940. It is a rather heavy exchange of non-manufactured goods from the southwest for exchange of manufactured goods from Official territory.

Chairman Aitchison: Continue.

The Witness: On the contrary, the barriers that keep diversified industries from developing their full potentialities in the South and West should be removed. I believe, in short, that the country will come out better in the long run if we can find a way of making industry grow more abundantly in the South and West than if we continue the present tendency to concentrate three-fourths of national manufacturing in Official territory, with an accompanying migration of surplus farm population from the South and West into that territory.

Intensified and diversified industry for the South and [fol. 1389] West does not imply, of course, that factories should be spread evenly over the entire continental surface. In some areas, the lack of sufficient resources or of an adequate consuming market, or both, precludes any marked industrial development. Similarly, some industries should continue to concentrate in or near their present locations because of special natural advantages, such as nearness to uniquely attractive resources. In the total economy of materials, energy, labor power, potential market, and even climatic conditions, however, many industries could develop in parts of the West and South at least as well as in existing industrial regions.

It is almost needless to state that the South and West actually have sufficient resources on which to found a large industrial development. Contrary to popular belief, these regions have the human resources for manufacturing. Rural young men and women with no previous industrial experience have gone from the south in great numbers to places like Detroit and Akron, and in a few months have become efficient factory operatives. Within the South, young men and women with no previous factory experience and very limited educational opportunities have gone into

the textile, book printing, chemical, and other industries in great numbers, to be entrusted after a few months with the supervision over delicately adjusted machinery and complex processes. The Tennessee Valley Authority's own [fol. 1390] experience with Southern construction labor has been similar. Supplemented with a very few skilled artisans from other parts of the country, residents of the Tennessee Valley and neighboring areas have done all the skilled and unskilled work in building the TVA dams—and have turned in some of the quickest and most economical jobs in history. The myth that southern labor is inferior still persists in a few quarters, but it is a myth and nothing more. And what is true of southern labor is, of course, equally true of western labor, brought up in a region where educational advantages are at least comparable with the best the country affords.

Nor does Official territory have any monopoly of the material and energy resources. Here are just a few figures for purposes of illustration; they are derived from testimony already put in the record of this case by the Commission's witness, Dr. W. H. S. Stevens. The South and West have nearly 95 per cent of the country's available iron ore. The South and West have 54 per cent of the zinc against Official territory's 24 per cent. The farms are great sources of industrial raw materials; and the South and West have 74 per cent of the agricultural land against Official's 22 per cent. Only 7 per cent of the national stand of saw timber is in Official territory, whereas nearly 24 per cent is in the South and West. The South and West have 30 per cent of [fol. 1391] the coal; Official territory has 25 per cent. Official territory has 3 per cent of the petroleum reserves; Southwestern territory alone has 68 per cent. And so on, through the other material and energy resources. Indeed, the very fact that the South and West provide vast quantities of raw materials for Official territory is the very best proof that these regions are richly endowed for industrial development.

I do not mean to suggest, of course, that the South and West should monopolize the manufacturing of their indigenous resources to the detriment of enterprises already established in Official territory. My point is rather that we have resources great enough to support a great deal more industry than the country now has, and that a much larger proportion of new industry should go into the South

and West than has been true of industry established up to now. I shall try to show why such development is superior to the continued disproportionate concentration of manufacturing in Official territory.

In the first place, certain real economic wastes would be avoided. One of them is the waste caused by excessive congestion in the great urban industrial communities of Official territory. Obviously the crowding of people and enterprises into small portions of the country vastly increases the physical burden and hence the cost of providing food supplies and industrial raw materials. In crowded [fol. 1392] communities local transportation is costly and time-wasting. Congestion makes public services complex and expensive.

The continued large-scale migration of surplus raw materials workers would have bad effects in the South and West. It is true that the departure of some of the people from the cotton and wheat belts of the country would help the remainder by leaving a smaller number among whom to divide the total income from these crops. But unless the people who leave cotton and wheat remain in the same general neighborhood, their departure will bring on other difficulties. As population declines, land values generally decline, too. Merchants and professional men in dwindling communities must depend on a smaller patronage. Since the heavy overhead costs of a community, like those of a railroad or a modern factory, remain fairly constant through wide variations in the amount of use they receive, a widespread depopulation of southern and western rural areas would throw an impossibly heavy per capita burden for roads, schools, utilities, and other services on the remaining people. As the burden became impossible, the Federal government would have to assume increasing parts of it. If large numbers of southern and western people are removed to the industrial regions in Official territory, subsidies for the maintenance of overhead services in the rural South and West will inevitably grow very heavy. Hence it is to the advantage of the country as a whole to [fol. 1393] encourage readjustments that will help the South and West stand more firmly on their own feet. Augmented industrial development in these regions is the very core of such readjustments.

An economy which rests on the concentration of most of the nation's industry in one region does not reckon with

all the costs. It is sometimes contended that even after allowing for all transportation costs, the location of three-quarters of the country's manufacturing in Official territory is more economical than a more widely dispersed production would be. I do not accept this contention, but even if it were true there would be no net gain to the country if at the same time the apparent economies were offset by other costs not reflected in price schedules or in profit and loss statements. In very large measure these offsetting social costs are actually being incurred. In their more obvious form they mean the loss to the South and West of their investment in the rearing and education of young people who migrate to other regions.

Mr. Barron: I submit, Mr. Chairman, the last 15 pages of this testimony is purely argument. I move that it be stricken.

Chairman Aitchison: Overruled. I have listened too long to economists put on by the respondents in this case and who have appeared in other proceedings to think that [fol. 1394] it can possibly be immaterial. Continue.

The Witness: They mean the out-of-pocket costs to the migrants themselves of uprooting, moving and resettling. In a more insidious form they mean the unnecessarily rapid depletion of raw materials resources. A very low price for raw materials may be advantageous to some, but cheap raw materials means a return to the producer so low that he cannot properly conserve his portion of the national resources In cotton and wheat production, for instance, the margin between receipts and cost of production is so narrow in most years that the farmer cannot adequately replace plant food elements in his soil and take protective measures against erosion. Resource depletion is a national problem as well as a critical local problem in the South and West, and unless it is solved today we may face pinch of real scarcity tomorrow.

I have mentioned the need for a shift within agriculture from the production of certain staple commodities to fresh foods. Industrial development in the South and West would promote that shift by creating a new demand for fresh foodstuffs in these areas.

The same results could not be gained by moving southern and western people to factories in Official territory. In a wheat-growing neighborhood in Nebraska, for instance, 500 new factory jobs would perhaps mean 1,000 new jobs in the

[fol. 1395] community, including the industry-created demand for additional trading and service enterprises. This increase in purchasing power would make it profitable for some of the wheat-growing farmers in the neighborhood to shift in fruits and vegetables, milk and other dairy products, and meats. But the migration of 500 or even 1,000 wheat-growing Nebraskans to a factory in Michigan could not have the same effect. Cost of transportation and intermediate handlings, lack of marketing arrangements, and in some measure the perishability of the product would bar Nebraska from selling much fresh products in the Michigan market. Nor would the people who moved to Michigan be equally well served by Michigan farmers. If, for instance, the growth of a Michigan factory community requires extending its milk supply or its truck gardening area 50 miles beyond the existing limits, the price of the city's entire milk supply or vegetable supply will tend to rise by the cost of transporting goods 50 miles, thereby bringing it beyond the means of some of the people. In these respects, indigenous industrial development in the South and West is far superior to an equal amount of new factory growth in the regions where factories already exist in profusion.

Arguments that the existing extreme specifications by the several regions are good economically also overlook the merits of diversity. So long as the South and West are so [fol. 1396] greatly dependent on raw materials, their people will be subject to heavy upsets and dislocation in the raw material industries and occupations. One-crop production, whether the crop be wheat, cotton, coal, or cotton textiles, is ruinous when a disaster is encountered like the Great Plains dust storms, or the coming of the boll weevil to parts of the South, or a sudden loss of foreign markets. In effect, cotton and wheat have had to go on relief because overseas markets have fallen away, and the wheat and cotton regions had no adequate substitute to take their place.

I should like to refer to the possible effect industrial development in the South and West would have on the raw materials interests of these regions, especially the agricultural interest. Augmented industrial development would benefit farmers, who are the most numerous among the raw materials producers, in several important ways. In

districts where the population is greater than the land can support adequately in agriculture, industry would relieve pressure by providing new kinds of jobs. The added purchasing power from industrial wages would encourage agricultural diversification, and, good urban markets nearer the farms would mean better prices realized for farm commodities. Farmers would also benefit as consumers, because the prices of goods farmers buy now include the cost of long-distance transportation of materials to the fac- [fol. 1397] tories and of the return haul on manufactured goods.

I should like to make it clear that the real issue here is not one among regions. It is rather a question whether unnecessary economic bottlenecks shall continue to impair national productivity. It is inconceivable that the South and West could become more prosperous without resultant benefits in the area north of the Ohio and east of the Mississippi.

Mr. Porter: Mr. Chairman, I raise an objection to all the material under Proposition 2 of this witness' thesis. It seems to me it is predicated entirely upon the proposition that freight rates must in some way be made to prevent some economic consequences to the south or to industry in the south, and for that reason it is immaterial.

Chairman Aitchison: We will note your objection. Of course, the question as to the weight that should be given it, you will have to argue before the Commission.

The Witness: I have devoted considerable time to a discussion of the economic ills of the South and West in order to lay the foundation for a showing of the effect the existing class-rate structures have on the economy of these regions. I propose now to show that the high class-rate structure in the South and West acts as a material discouragement to the development of high-grade and diversified industry in these sections, and in this way it tends to perpetuate [fol. 1398] existing economic evils by preventing the South and West from making the most advantageous use of their resources.

The first and perhaps the most important way in which the regional disparities in class-rate levels discourages industrial expansion in the South and West is that rate inequalities encroach on the profit margins of manufacturers in rate-handicapped locations. With comparatively few exceptions, any product made in the South or West can also

be obtained from sources of supply located in Official territory.

When one producer's goods incur higher freight charges than another's in reaching a common market, the one with the higher freight charges must absorb the difference. It is of course perfectly fitting and proper that absorptions should fall on producers whose goods will obviously require more transportation service to reach a given market than the goods of another. Absorptions become onerous only when they accrue without regard for the comparative amounts of transportation service.

Such absorptions actually fall on many actual and potential manufactured products of the South and West, and they are large enough to contract profits and narrow markets very materially. The burden often grows heavier with the stage of processing. Some southern and western raw materials move within the South and West and to [fol. 1399] Official territory on rates as low or nearly as low as Official territory rates for the same distance. If these same materials are manufactured before moving, they of course encounter higher rates in the absolute—which is proper. But the spread between raw material rates and manufactured goods rates is generally greater in the South and West and in interterritorial movement than it is in Official territory. When this happens, the opportunity to compete which exists at the raw materials stage is decreased by differentials which generally grow greater with the progressive stages of manufacturing. That is, the rate structure in the South and West and from these regions to Official territory becomes in effect a protective tariff system which permits the easy movement of basic materials, but handicaps the movement of high-grade and diversified manufactures—the kind of manufactured goods the South and West should be producing to counterbalance their excessive dependence on raw materials.

A few examples of this situation as it affects Southern territory are shown in chart III. The rate relationships indicated by the bars of the chart are based on a sample study as shown in appendix C and are considered to be fairly representative of the respective rate levels. Similar examples could be worked out for Southern territory and for Southwestern and Western Trunk Line territories as well.

As figure 1 in this chart shows, the rates on cottonseed [fol. 1400] oil, a basic agricultural commodity, are about 7 per cent higher from Southern to Official than they are within Official. But when the oil is manufactured into oleomargarine, the rates to Official territory become 35 per cent higher than the rates within Official. And when the oil is highly refined and packaged as cooking or salad oil, the handicap rises to an amount equivalent to 37 per cent of the Official territory rate.

The example in figure 2 starts with woodpulp. Pulpwood, the primary material, does not move interterritorially; but the pulp, which comes after a simple manufacturing stage, leaves Southern producing points in quantity. Southern pulp encounters a 9 per cent rate handicap in reaching Official territory, compared with pulp moving the same distances within Official. On pulpboard, paper bags, paper boxes, and wrapping paper, the handicap is a little heavier. On newsprint paper, an industry that Southern and Southwestern territories are trying to develop, the handicap amounts to a ruinous 59 per cent.

On asphalt movements, as shown by figure 3, Southern shippers are not handicapped in reaching Official territory markets. On asphalt roofing, a fabricated product, the Southern producer suffers a 10 per cent rate handicap. If he chooses instead to manufacture asphalt paint, a higher-value commodity, the handicap rises to 53 per cent.

[fol. 1401] The same kind of pattern appears in figures 4 and 5. Ceramic clay is handicapped relatively lightly; china or earthenware, plumber's goods and pottery are handicapped heavily. Pig iron, which is shipped in volume from Alabama and in smaller quantities from other southern furnaces, has been given rates comparable with Official territory producers, distance considered. One stage of processing, that of working the pig iron up into steel plates or sheets, immediately incurs a 20 per cent rate handicap for the southern producer in competition with the producer in Official territory. Carried to a very advanced stage of fabrication, the pig iron, with the addition of other materials, becomes a tractor—and the rate handicap becomes a staggering 40 per cent differential over the Official territory rate for the same distance. If the iron finally becomes a hand tool, the "duty" it must bear becomes still heavier.

Regardless of his location, every producer enjoys certain transportation advantages in a territory surrounding his

tory, and in this territory manufacturers at more distant points must expect to absorb a certain amount of freight charges. If we had a nationally uniform scale of rates, the areas of advantage enjoyed by two competing producers would end at a line equally distant between the two. But we lack that national uniformity. Much of the manufactured goods produced in Official territory move [fol. 1402] on lower rates, mileage considered, than the manufactured goods produced in the South and West. In this way, a part of the area actually nearer southern and western producers in amount of transportation service required is actually converted in point of transportation charges to the areas of advantage enjoyed by Official territory producers. The far-reaching effects of offsetting distance advantages by arbitrary rate handicaps is brought out in the charts numbered IV, V, and VI, pages 11, 12 and 13 of my exhibit, one each for a representative commodity produced in Southern, Southwestern, and Western Trunk Line territories in competition with Official territory. The large shaded portion of each map is the area in which the southern and western manufacturer now suffers handicaps which would become advantages if he were accorded the same level of rates as his competitor in Official territory.

The showings in these charts are actually overconservative; the handicap is not confined to the shaded areas. At a point, say, 200 miles short of Oswego, Birmingham producers properly expect to have to absorb freight charges; but under existing conditions, Birmingham's absorption 200 miles short of Oswego is greater than Oswego's absorption 200 miles short of Birmingham. In other words, rate inequalities not only convert distance advantages to arbitrarily created disadvantages, but frequently they also [fol. 1403] make the penetration of Official territory products into the South and West easier than the penetration of southern and western goods into Official territory. Furthermore, the actual disadvantage is often very much larger than the amount of freight charges absorbed. Wherever the absorption exceeds the manufacturer's profit margin, he is shut out of the market entirely. Hence Southern and Western producers of goods subject to these rate inequalities must frequently suffer the additional handicap of reduced sales volume. Lower volume, espe-

cially in decreasing cost industries with their large fixed investment in plant, machinery, and overhead services, brings about higher unit costs of production, which lead in a vicious spiral to higher prices and still further contraction of volume.

Regional inequalities in rates either fortify existing distance to market advantages possessed by Official territory manufacturers, or they create advantages where none would otherwise exist. The seriousness of this situation is increased by reason of the Official territory's being a very wide margin the largest market for most kinds of goods. The importance of this market is brought out in chart VII, on page 14, captioned Concentration of National Markets in Official Territory. Official territory is more than one-half the total market for the necessities of existence by virtue of its having more than one-half of the population. [fol. 1404] By virtue of its having more than a proportionate share of the higher incomes, it is a still better market for luxury goods. By virtue of its having more than three-fourths of the manufacturing activity, it becomes a still more concentrated market for raw materials and industrial machinery and equipment of all kinds. With less than one-sixth of the national area, Official territory is an extremely concentrated market, thereby facilitating the mass distribution of goods.

The extent of the handicap the southern and western industries must bear can be illustrated by showing how deeply freight rate absorptions cut into profits when southern and western manufacturers compete with Official territory producers in equ-distant markets.

In terms of price, the amount of freight rate inequality on most common articles is small. This is brought out in a number of examples shown in table 7, on page 15, captioned Burden of absorbed freight charges on profits of southern and western manufacturers in competition with Official territory manufacturers at equidistant markets. It costs only 82½ cents more, for instance, to ship an average size electric water heater, Item 5, from Chattanooga to Peoria than it does to ship a heater from Pittsburgh to Peoria. 82½ cents is only 2 per cent of what the heater is worth in the manufacturer's inventory. But a two per cent reduction in the realized price may be a very large propor- [fol. 1405] tion of the margin between price and cost. In the water heater example, absorption of the superficially

small difference in freight charges cuts off one-fifth of the normal profit. The supporting data for this table is shown in appendix E on page 31.

In the water heater example, the competitive market is in Official territory; its being so, however, is not a necessary condition. In a number of instances shown in the table the market is in Southern or Western Trunk Line territory.

The examples in this table were not hand-picked as to either commodity or destination. They reflect, rather, commodities on which average unit weights and values were readily available, and they reflect the more or less accidental working out of destinations equally distant from the two selected producing points. All Official territory producing points shown are actual ones. As far as possible, the same thing is true of points selected in the South and West. In the kinds of goods in which no southern and western production could be found, points where production would be logical have been chosen. The assumed profit margins, ratios of profits to sales, are not those of individual producers in the locations shown, but are representative of selected industries.

Such absorptions cannot be escaped under normal competitive conditions. It is true that absorptions sometimes [fol. 1406] fall not on profit margins but on factory wages, prices paid for raw materials, and the like. But, in whatever form, they are still reductions in the total income of the communities and regions which suffer under them.

Sweet Potato Growers, Inc., a producers' cooperative, located at Laurel, Mississippi, is a good example. It is engaged in the extraction of starch from sweet potatoes for household and industrial use. It happens to be an enterprise which deserves encouragement. The sweet potato thrives in the old cotton areas of the Gulf coastal plain. Cotton production needs to decline in this territory as rapidly as substitute crops, industry, and other sources of income can be developed. Furthermore, the United States has previously had to depend heavily on imports from the Western Pacific war zone for starches of comparable quality. A need for the product plainly exists. There is, however, a competitive situation. Domestic cornstarch is a substitute, and cornstarch will be used instead of sweet potato starch if the delivered cost of the latter gets too far out of line. So the relation of the rates on this south-

ern product to the rates on northern cornstarch is genuinely significant.

The Laurel starch factory opened up in the midst of the depression. Very largely by virtue of a low price paid for raw material potatoes, it began to liquidate its early de- [fol. 1407] velopmental deficits after September 1, 1939. In the seven months ended February 28, 1941, the books showed a net profit of $1,015.31 against gross starch sales of $59,878.92. The details are shown in table 8, page 16. The experience of this seven months period is chosen because it was covered by a thorough audit made by the Farm Security Administration.

To determine whether the rate structure discriminated against the enterprise, the total freight charges actually incurred were compared with what the total would have been if each shipment had moved on the class rate basis applicable on starch within Official territory. Investigation indicated that competitive starches move on commodity rates lower than the class rates between some points within Official territory, so the procedure actually employed tended to under-represent the amount of rate inequality. Actual freight charges during the period on the total railway shipments from this plant amounted to $7,062.02, which is 22 per cent higher than the aggregate at the Official level of rates, amounting to $5,798.06, would have been. In absolute amounts the excess of the actual charges incurred over the equivalent Official basis amounted to $1,263.96. This is only 2 per cent of the total net sales from both starch and by-product pulp and may seem small. But if this saving had been available it could have been devoted to an increase of almost 8 per cent in the price paid for raw materials, or [fol. 1408] a 10 per cent rise in the wages paid, or a 124 per cent increase in net profits. Or the saving could have been used to lower delivered prices and increase production and sales, with the probable long run result of still greater profit because of higher volume operation.

This is only one example. In the light shed by it and table 7, however, and in the light of the rate inequalities which actually exist, I think it is abundantly clear that the prospects for survival and growth in southern and western industries are now materially impaired by the regionalization of freight rates, and that their prospects would be materially improved by a readjustment of rates conferring

reasonable equality of marketing opportunity throughout the country.

The present regionalization of freight rates has been developed for and tends to perpetuate the present regional patterns of production. As I have also endeavored to point out, however, there are certain regional and national objectives which can be achieved only imperfectly so long as the present exaggerated regionalization of production survives. From the point of view of the nation, the ideal of full employment, full production, and a maximum national income would be better promoted if a large part of future industrial expansion went into the South and West instead of into the already congested North and East. [fol. 1409] Also from the national point of view, excessive specializations are one factor causing the unnecessarily rapid depletion of natural resources which could last us indefinitely under a more careful husbandry. From these considerations I conclude that the continued tendency in the present direction would be contrary to sound public policy. Since the rate structure imposes handicaps on the full development of the South and West, it tends to continue the present tendency to excessive specialization. Hence these handicaps should be removed.

The means of removal is of great importance. Heretofore the general avenue of relief has been piecemeal adjustment, that is, adjustment in individual instances without the establishing of principles having general application. This procedure is unsatisfactory.

In the first place, piecemeal adjustment does not look toward the future or reckon with traffic which does not already exist. Railway managements tend to take the position that discrimination against unborn or prospective enterprises is an academic question. But because the South and West are industrially deficient regions, much of their industry is yet unborn and much of their traffic is still potential. This situation can too easily result in an impasse in which the railroads promise to consider rate relief when they can see the traffic, and the sponsors of new enterprises [fol. 1410] refuse to invest their money until they are sure that the freight rates will be at a nonpreferential level.

The second fault of piecemeal adjustment is that it is extremely uncertain. Attempts to negotiate rate reductions are imperiled at several points. Although the originating carrier in many instances is willing to make the needed ad-

justments, the proposed change may be delayed or effectually blocked by protests of competing shippers or competing carriers. Furthermore, nearly all interterritorial traffic and probably a majority of all traffic must move on the lines of more than one company before it can be terminated. In this situation any carrier whose participation is required can refuse to concur in any rate lower than the maximum prescribed by the Commission, thereby forcing the seeker for relief either to resort to the Commission or to accept the published basis, which in the absence of a commodity rate, is the rate stated in the class rate schedules.

Because the details are so familiar, I need hardly take a great deal of time to point out that refusals to concur in lowered interterritorial rates are by no means uncommon.

Indeed, the Official carriers are on record with arguments to the effect that they are duty bound to withhold their concurrences in interterritorial rates which would subject Official territory manufacturers to full and equal competition from Southern and Western manufacturers. See, for [fol. 1411] instance, page 4 in the memorandum brief for carriers operating in Official territory in the proceeding styled Ex Parte No. 116—Interterritorial Rate Bases, in which the following language appears: ". . . The populous Official Territory provides the markets for a large part of the traffic produced elsewhere in the United States. That territory is hemmed in on the South, the Southwest, and the West by territories . . . all seeking to market their products within the territory served by Official lines. In many instances such commodities . . . come into direct competition with the commodities produced in that territory. Official lines, therefore, are in duty bound to protect the geographical or other natural advantages possessed by shippers or producers on their lines, and as a matter of justice and equity, they may not be required to join in such low bases of interterritorial rates as to nullify or neutralize these natural advantages."

The existence of this trade restraining or tariff barrier power has also been testified to on occasion by the Southern carriers. Speaking before this Commission against the acquisition of the Chicago, Indianapolis and Louisville Railroad by the Baltimore & Ohio, Witness E. R. Oliver, vice-president of the Southern Railway, made the following significant statement about Official carriers which interchange with Southern carriers: "The new policy of these

[fol. 1412] connections is to build a rate wall at the Ohio and Potomac Rivers which will prevent or greatly curtail the movement of Southern products into Official territory." This statement appears in the record of evidence in Docket 12964, Consolidation of Railroads, at page 2124.

This refusal of Official carriers to concur in interterritorial rates which would set up equal competition is an effort to protect a select group, namely, manufacturers and distributors located along the lines of Official carriers, from the competition of "outsiders". In only one major instance that I know of has the traiff barrier broken down on anything that might be described as a large scale. I shall very briefly introduce that instance for the light it sheds on how the protection works.

As the Commission stated in the Southern Governors' case, 235 I. C. C. 329, the northern carriers as a group effectively control the rates within the North and also the northbound interterritorial rates except to points on and west of the Monon line. The freedom from control by northern carriers in the part of Official territory west of the Monon arises out of a policy on the part of two Official carriers which differs from the policy of the other. The Illinois Central System, which operates between Chicago and the Gulf of Mexico, apparently feels that it has a sufficient stake in northbound and southbound traffic to [fol. 1413] disregard the artificial boundary which its trains cross at the Ohio River. The Monon, which is under the control of two southern carriers, is apparently moved by the same motives as the Illinois Central in giving free access to Official territory for at least a part of their southern-originated traffic. The two carriers have breached the interterritorial tariff barrier for traffic which can be originated or terminated on or within the immediate influence of their lines. This influence extends to the entire area lying between the Illinois Central on the west and the Monon on the east. That is a fair generalization to make because the other Official carriers, which insist that the barrier be maintained elsewhere, have fallen into line on traffic between Southern and this portion of Official territory—the so-called "controlled territory".

In this way competition has opened up a nonpreferential system of rates for much of the traffic between Southern territory and portions of Indiana and Illinois. If the other Official carriers had not fallen into line in this area, the

Illinois Central and the Monon would take all the business. There is a good deal of significance in this instance because the Official carriers and on occasion some other carriers have declared repeatedly that "transportation conditions", which I can only construe as an economist to mean service costs, are so much less favorable in the South and West [fol. 1414] that the interterritorial rate differentials must be maintained.

By Chairman Aitchison:

Q. Before you go any further, please turn back to chart No. 4.

A. Yes.

Q. If the Southern rail lines are in a position to equalize on and west of the Monon, why do they have a shaded area through the states of Illinois, Iowa, Minnesota, North Dakota, South Dakota and Nebraska?

A. The equal rate line is generalized on this chart and that particular example happened to be from the southwest, sir.

Q. No. It is the Burlington.

A. Oh. I had the wrong one. The equal distance line—I see your point sir. In that particular instance I would have to refer to the papers to analyze this situation. I could not say offhand whether that is applicable here or not.

Mr. Charles McCarthy: In that connection, Mr. Chairman, chart 4 and charts 3, 5 and 6 also are, of course, rate charts. I introduced them by this witness since he wished to use them to discuss the economic effects of the rate situations as shown there. Now, the traffic trends appear in the appendix and these charts were prepared by Mr. Robert Sheppard——

Chairman Aitchison: I have no doubt the charts are [fol. 1415] correct. That is not the point. He is saying that that is the fault of the carriers in Official territory, with respect to anything which is east of the Monon. Now, I am asking him why it is that in the area which is west of the line of the Monon, chart 4, you still have a case where the rate situation is in favor of the Official carriers.

Mr. Charles McCarthy: The reason I made that statement, Mr. Chairman, is that Mr. Sheppard is here and we were going to offer him for cross examination on all rate questions involved here.

Chairman Aitchison: This witness has testified with respect to policy of the Official carriers in refusing equalization. I am asking him what his explanation is of chart 4.

Mr. Charles McCarthy: It seems to me offhand that the explanation must be that the Southern carriers in that instance did not agree to equalize. I was merely making that as a suggestion.

Com. Alldredge: Is not that the obvious answer?

The Witness: It is.

By Com. Alldredge:

Q. If the Southern lines are in a position to force adjustments into Official territory through the Monon and the Illinois Central in Western Trunk Line, and they did not do it in this instance, the obvious answer is that the South-
[fol. 1416] ern carriers did not care to do it, is that not right?

A. I think that is correct, sir.

Chairman Aitchison: Proceed.

The Witness: I do not mean to suggest that the regionalized freight rate problem should be solved by remaking the corporate connections of the Nation's railroads so as to give Official carriers on the one hand and Southern and Western on the other greater unanimity of interest. I introduced the instance rather as one of the curious anomalies, which inevitably grow out of any system of piecemeal adjustment. The instance does have a moral. It gave this Commission an opportunity to express itself as follows in 185 I. C. C. 403 at page 409: "The importance of the Monon," the Commission said, "in the maintenance of a healthy competition between the North and the South, and the consequent desirability of keeping open existing routes and channels of trade and commerce between these two sections of the country, have convinced us that this property should remain with its present ownership . . ." That is a line of reasoning which may be heartily endorsed for a much more general application. Since competition is healthy in trade between the South and a limited portion of Official territory, it should be equally healthy between all parts of the South and West and all of Official territory.

Continuing on the theme of piecemeal adjustment, this [fol. 1417] procedure favors the great and strong over the

small and weak, because the great wield a more effective bargaining power. For the most part, this Commission has held that the exact magnitude of rates is a matter for managerial discretion. Managerial discretion may make rates anywhere within the zone of reasonableness, which is sometimes fairly wide. A large shipper is in a position to interest the railroads in offering rates further down in the zone of reasonableness than is the small shipper.

Furthermore, the large shipper has a great - - freedom of action than the small one. Except in times like the present emergency, he always has the alternative of setting up his own fleet of trucks, or if he chooses to pursue his efforts for lower railway rates, he is better able financially than the small shipper to employ able counsel and to make the best showing possible on the facts he has to act from.

It is true, of course, that once a rate is established between two points, he who ships one carload a year on it is entitled to the rate in the same measure as he who ships one thousand. The only exceptions are the few instances in which the Commission has allowed lower rates on full trainloads. It is also true that once a rate is established, it can be used by all whose traffic flows over the route to which it applies. But small enterprises, especially in the South and West, [fol. 1418] rarely have large neighbors to obtain rates for them.

Because these very large drawbacks exist, I believe that the establishment of class rate levels which benefit no region involved in this proceeding above any other would do much more to encourage orderly industrial development in the South and West than piecemeal adjustment can accomplish even in the best of circumstances. In my considered opinion a system of rates that bestows equality of industrial production and marketing opportunity will materially serve the long run national objective of fuller production, fuller employment, better conservation of resources, and an improved standard of living.

Mr. Charles McCarthy: Mr. Chairman, as stated, the rate data on which charts 3, 4, 5, and 6, and table 7 are based, was prepared by Mr. Sheppard. He is available, and I would like to present him for any cross-examination on the accuracy of the rate data. With that explanation I would like to offer this exhibit in evidence.

Chairman Aitchison: Certain objections have been made to portions of it which, of course, are reserved except as to

Mr. Barron's, which is overruled. Without further objection, the exhibit is received.

(Exhibit No. 76, Witness Spotswood, received in evidence.)

Mr. McCollester: If the Chairman please, I would like to have you reserve ruling until after cross examination, if [fol. 1419] you do not mind.

Chairman Aitchison: I have only ruled on Mr. Barron's objection.

Mr. McCollester: I shall have an objection to materiality which will not come out until cross examination, I think. I know of no way to develop it without cross examining.

Chairman Aitchison: You may move to strike, then. The witness has been on the stand now for an hour and three-quarters. I think he ought to have a recess before we go on. We will take a short recess.

(A short recess was taken.)

Chairman Aitchison: Come to order, please, gentlemen. You may proceed with cross-examination.

The Witness: Mr. Chairman, before we proceed, I would like to make one slight correction. On page 28 of my testimony I made the statement that the industries in the south are actual industries, referring to charts 4, 5 and 6. The Match Company to which I referred in Birmingham has gone out of business since these charts were prepared, or at least it is not now in business.

Chairman Aitchison: Cross examine.

Mr. Porter: I have a few questions, Mr. Chairman.

Chairman Aitchison: Mr. Porter.

Cross-examination.

By Mr. Porter:

Q. Mr. Spotswood, you spoke several times in your [fol. 1420] testimony of the present tendency or present trend of industrial development with the statement that the trend should either be checked or reversed in the national interest. You are aware, are you, that the trend of industrial development in the South, at least, has been relatively favorable as compared with that in Official territory?

A. Yes. I understand the South has gained in the last few years, but it has been in the types of industries that are primary industries, such as paper, heavy chemicals, and things of that nature; not in the diversified industries.

Q. Do you consider paper manufacturing a primary industry, as you call it?

A. Wrapped paper and kraft paper is not an industry that is high valued, diversified. It uses a great deal of labor based on a rather few steps of manufacturing.

Q. A relative improvement in the south is, of course, nothing to be disparaged, is it?

A. No, sir.

Q. That trend is all right?

A. Yes, sir.

Q. Now, you also spoke of the South and West having 95 per cent of the iron ore and 30 per cent of the coal. Is it necessary to bring iron ore and coal together in order to produce iron and steel?

A. Yes, sir.

[fol. 1421] Q. Where is most of that 95 per cent of the iron ore produced?

A. In the Mesabi region.

Q. How does that move into the steel mills?

A. A great portion of it moves by lake.

Q. To get to the South, how would it have to move from the lower lake ports?

A. I did not quite understand your question. I do not understand what you mean.

Q. If you were bringing this iron ore into the South to produce iron and steel, you would have to move it from lower lake ports by rail into the South, would you not?

A. Yes, but I am not advocating moving iron ore to the south.

Mr. Porter: I see.

By Mr. Porter:

Q. You spoke also of there being a greater spread in the rates between raw materials and those on manufactured products in the South than was the case in Official territory or interterritorially.

A. Yes.

Q. Do you recall that?

A. Yes.

Q. Is that because the rates on the raw materials are lower in the south and the rates on the manufactured products are higher in the South than is the case with respect to either of those materials in Official territory? [fol. 1422] A. Generally speaking, I understand that the rates on raw materials suffer a comparatively less burden in moving within the South and from South to North than they do as compared to the rates, distance considered, in Official territory.

Q. Now, have you examined the problem of the southern manufacturer with respect to his entire freight burden, that is, both his raw materials in and his outbound products out, as compared with the Official territory manufacturer, who has a relatively greater burden on his raw materials in, whether they originate in Official territory or in the south, and his outbound finished product out?

A. I have not analyzed that in detail, sir, no.

Mr. Porter: Thank you. That is all.

Mr. Widell: I have a few questions, Mr. Chairman.

Chairman Aitchison: Mr. Widell.

By Mr. Widell:

Q. Mr. Spotswood, turn, please, to your charts 2 and 3 on pages 9 and 10.

A. Yes.

Q. Chart 2 is headed, "Depressing effect of raw materials specialization on the income level", and chart 3 refers to specific commodities apparently under the category of raw materials and manufactured products.

A. Yes.

Q. I do not find in your statement or in this exhibit a specific list of what might be termed raw materials or a [fol. 1423] specific distinction between materials that are either manufactured on the one hand or strictly raw materials on the other. Could you help me on that a little?

A. This is based on population engaged in raw materials production.

Q. That is chart 2?

A. Yes.

Q. Now, turn to chart 3.

A. Yes.

Q. You list certain commodities there and your following pages then deal with those particular commodities.

A. Yes.

Q. Does the list that you have in chart 3, Mr. Spotswood, complete your list of so-called raw materials that you have in mind?

A. No, sir. This chart 3 is merely representative; it shows merely some representative examples.

Q. Which of them——

A. It is not important to cover everything.

Q. Which of them are what you would call raw materials on chart 3?

A. That distinction is not necessarily made on chart 3. That shows that as the processing increases, the rates in the south increase disproportionately. We have taken a series of articles and traced them through without [fol. 1424] trying to make any particular distinction there.

Q. Speaking of this processing, with respect to plumbers' goods and chinaware, figure 4, is there an actual production in the South to your knowledge?

A. No, sir. I do not know.

Q. Could you furnish a list of raw materials, a further list of what you would term raw materials, conveniently? That would, I think, help clarify the confusion in much of the economic discussion of raw materials versus manufactured products. Could you do that, sir?

A. I think those distinctions are made in several ways in the statistical publications. The Commission itself has a list of manufactures and miscellaneous. The Census of Manufactures has a long list of manufactured goods and there are certain distinctions between semi-finished and raw. I could furnish a list. Most anybody could furnish a list of raw materials, although I do not see that it makes any difference here.

Q. I am speaking, Mr. Spotswood, more about your own conclusions that you draw from these figures, and so forth, and your own use of them. Many of us might attempt to follow you and yet leave out certain things and arrive at different conclusions. Would it be a very long list that you could furnish of raw materials produced in the South, contributing to this condition you speak of? [fol. 1425] A. I would say it would be a fairly long list, sir.

Q. Could you prepare a list showing a more representative selection of raw materials?

A. In connection with what particular portion of what particular chart are you referring to, Mr. Widell?

Q. Not only your charts. Your charts I think are deficient in connection with your conclusions drawn in your direct testimony.

A. As I understand you, we did not list a long list of what we mean by "raw materials"? Is that what you mean?

Q. You did not list enough of them. Could you give me, say, 12, a representative list of 10 or 12?

A. Just raw materials?

Q. Raw materials.

A. With no relation to their movements between territories or anything?

Q. The point is, Mr. Spotswood——

A. I would like to know what you are leading up to.

Q. Merely the raw materials and the general characteristics that contribute to this economic condition that you spoke of and referred to in your testimony.

A. I would like to have some time to give that study. I am not prepared to furnish it.

Mr. Charles McCarthy: I am not sure from Mr. Widell's question whether he has reference to chart 2 or chart 3. [fol. 1426] If it is chart 3, I would like to suggest that the appropriate procedure would be for him to prepare his own comparisons and put them into the record rather than asking the witness to prepare one for every conceivable raw material. I think that is a matter of rebuttal rather than a proper question for cross examination.

Mr. Widell: Mr. Chairman, may I merely add this: in the witness' direct testimony there were certain conclusions—in fact, all through his entire paper—not only limited to the specific figures here, but to his general investigation of these economic factors and the part that raw materials as a whole play in the retardment of the development of the South and other territories, especially the Southwest and West. Since the direct testimony in my mind went way beyond the facts shown in his exhibit, I wondered whether it would not be possible for him to furnish a further list of raw materials.

By Chairman Aitchison:

Q. May I ask the witness if his conclusions which h expressed were based solely upon the five examples shown in chart 3.

A. No, sir.

Chairman Aitchison: I think Mr. Widell might interrogate with respect to other instances of raw materials as contrasted with manufactured products if the witness had that in mind, but I do not think we ought to hold this up [fol. 1427] for the purpose of the preparation of a list.

Mr. Norman: Mr. Chairman, may I suggest that table 2, page 3, discloses that the witness has separated the commodities showing products of agriculture, animals and products, products of mines, products of forest and manufactures and miscellaneous. He has them all there. If he wants to ask him which ones he considers raw materials, that would seem to be appropriate.

Mr. Widell: He has listed pig iron on his chart No. 3.

Chairman Aitchison: The ruling has been made, Mr. Widell.

Mr. Widell: I beg your pardon?

Chairman Aitchison: I said, the ruling has been made.

Mr. Widell: I am sorry, sir, but I did not understand the purport of your ruling.

Chairman Aitchison: I said, you may interrogate with respect to what other raw products he had in mind which he is contrasting with manufactured products as the basis for his opinion, but we should not hold up this investigation for the purpose of having him later prepare a list of those things.

Mr. Widell: Thank you, sir. May I ask you this, then, Mr. Spotswood:

By Mr. Widell:

Q. In connection with your chart 3, you did evidently include pig iron in your category of raw materials, is that [fol. 1428] not correct?

A. As explained before, Chart No. 3 makes no attempt to differentiate as between kinds of materials. We merely show that as the degree of manufacturing progresses, the rates increase disproportionately.

By Com. Alldredge:

Q. But you did include pig iron?

A. Pig iron is a starting point for that particular series, that is all.

By Mr. Widell:

Q. But you did not attempt to begin with what has been mentioned before, iron ore, coal, coke and those primary raw materials?

A. No, sir, we did not, in this chart.

Mr. Widell: Thank you, sir.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Spotswood, should the Commission understand that your Exhibit No. 76 has been prepared with the purpose of showing the economic effect of rates which are involved in this proceeding?

A. Not entirely, sir. I think the examples I have used in chart No. 3, for instance—probably some of those materials do not move on rates that are in this proceeding, but I am drawing general conclusions only from those rates.

Q. Will you turn to appendix C, which is the basic data for the information shown on chart 3.

A. Yes.

[fol. 1429] Q. Point out to me any rates in appendix C which are involved in this proceeding.

A. Mr. McCollester, as I stated at the outset, I am not a rate expert and this supporting data was prepared under my direction by a man who is here for cross examination on those rates.

Q. Did you direct him to make this selection of rates, rates on these commodities?

A. The exhibit and tables were all prepared under my direction and in connection with my staff. I do not recall exactly whether I directed him or not to pick out these particular rates, no, sir.

Q. Will you look, for example, at page 24.

A. Yes.

Q. Tell me if there are any rates shown there which are involved in this proceeding.

A. I am not a rate expert and I could not answer that question.

Mr. McCollester: Mr. Chairman, I move, at least for the present, that Exhibit No. 76, or that chart 3 and appendix C of Exhibit No. 76, be stricken as not shown to be relevant to any isue in this proceeding.

Mr. Norman: Mr. Chairman, if I may be permitted to say so, the evidence offered here by the respondents has certainly not been confined to rates that appear in the [fol. 1430] classification proper. No general view of this situation could be obtained by the Commision if it confined the presentation, or its consideration, to rates appearing in the classification proper. As has already appeared in this evidence, in September, 1940, a very large body of the rates in the South that had theretofore been in the classification proper were taken out and put into exceptions with the promise on the part of the carriers that they would be put back in the classification proper, a promise which has not been fulfilled.

Certainly the going rates on these articles that ordinarily move on class rates are competent for presentation and consideration in this case. If you are going to exclude them, you have left only those things, which you can consider, that the carriers have seen fit to leave in the classification proper; and as one of the carriers' witnesses said, the traffic does not move on class rates, but moves on exceptions to class rates, and that of course is based on class rates.

Chairman Aitchison: Well, we can scarcely take the time now to check this out and see whether these particular rates are class rates or not.

Mr. McCollester: It shows right on their face, Mr. Chairman, in the tariff references on page 24, that they are all exceptions. That is shown on the face of the [fol. 1431] exhibit.

Chairman Aitchison: We have had much testimony about exceptions.

Mr. McCollester: I know we have, Mr. Chairman. That is one of the difficulties.

Chairman Aitchison: Proceed.

By Mr. McCollester:

Q. Mr. Spotswood, are we to understand that the opinion testimony which you have given here as an economist represents your views resulting from an impartial academic study of the economy of the entire country?

A. I have studied the situation from my point of view, as I see it, and this represents my views as I see it.

Q. You have endeavored to be entirely impartial here, have you?

A. I have endeavored to present the case in the light in which I see it.

Q. Is that the best answer you can give to my question?

A. I think that is an adequate answer.

Q. So far as you are informed in your function for the Tennessee Valley Authority, is it within the scope of the Tennessee Valley Authority's functions to participate in matters throughout the country affecting the general welfare of the United States?

Mr. Charles McCarthy: I object to that question, if the Chairman please.

[fol. 1432] Mr. McCollester: I will address the question to counsel.

Mr. Charles McCarthy: I do not think it is a fair question to ask the witness.

Mr. McCollester: I will address it to counsel.

Chairman Aitchison: The question is addressed to counsel. Do you care to answer it?

Mr. Charles McCarthy: I think I have already answered it, Mr. Chairman, in my statement as to the interest and position of the Authority in these proceedings.

Mr. McCollester: I take it that is the best answer I am going to have out of counsel for the Tennessee Valley Authority.

By Mr. McCollester:

Q. It is a fact, of course, is it not, Mr. Spotswood, that an increase in the manufacturing development of the Tennessee Valley and of the portion of the south drawing power from the Tennessee Valley, would improve the financial showing of the Tennessee Valley Authority?

Mr. Charles McCarthy: Mr. Chairman, I object to that question. I do not think it is at all proper.

Chairman Aitchison: He is tendered on behalf of the Tennessee Valley Authority, is he not?

Mr. Charles McCarthy: He is, your Honor.

Chairman Aitchison: The matter affects the interest of the witness. I think he can answer it.

Mr. McCollester: Read the question to the witness, please, [fol. 1433] Mr. Reporter.

(Question read.)

A. I assume that has reference to the fact that an increase in industrialization would mean the sale of more power. I am not in the power end of the Authority's program, but I think it is pretty obvious that if you sell more power, you make more money if your rates are proper.

By Chairman Aitchison:

Q. Well, does it not stand to reason that if the opinion of the Tennessee Valley Authority was that the solution of this matter which you advocate should not be made, you would not be here?

A. I did not hear the last part of your question, Mr. Chairman. I am sorry.

Chairman Aitchison: Read the question.

(Question read.)

A. Yes, sir.

Chairman Aitchison: Proceed, Mr. McCollester.

By Mr. McCollester:

Q. You have never been called as a witness, have you, in any proceeding in which the Tennessee Valley Authority did not stand to gain by the acceptance of your views?

Mr. Charles McCarthy: I would like to have just one more word on this question, if I may, Mr. Chairman.

Chairman Aitchison: Mr. McCarthy.

Mr. Charles McCarthy: As I stated at the outset this [fol. 1434] morning, the Tennessee Valley Authority has no interest in these proceedings in any narrow sense of the word. The Authority has rather broad powers under its statute. One of them relates to the selling of power, but that is only one. It also is engaged in the promotion

of navigation, flood control, and has wide powers relative to the general development of the region.

The particular survey which is the basis for Mr. Spotswood's testimony and which was commenced without reference to this proceeding, was made under the powers conferred upon the Authority by executive order of the President pursuant to Section 22 of the Act. It has no relation whatsoever to the power activities of the Authority or to any of its other activities. It is purely a research function which has been conferred upon the Authority. Our only interest in this proceeding is in making the results of that investigation available to the Commission. We have no financial interest in this proceeding and are asserting none. We are here, as I stated this morning, more or less in the position of a friend of the Court.

Mr. McCollester: I would like to have an answer to my question. Read the question to the witness, please, Mr. Reporter.

(Question read.)

Mr. Charles McCarthy: I would like my statement to be [fol. 1435] considered as an objection to that question.

Chairman Aitchison: The question is a very simple one, whether he has ever appeared in any case where the Tennessee Valley Authority did not have an interest which could be benefited by the solution urged, or something of that sort.

Mr. Charles McCarthy: I am sorry, I remembered the wrong question.

The Witness: Naturally if I appear for the Authority, the Authority expects that I present their views, and that they will benefit.

By Mr. McCollester:

Q. You have never appeared in any case where you have expressed views that would not benefit the Authority, have you?

A. I do not recall that I have, sir.

Q. Now, from the standpoint of the country as a whole and this function which your counsel indicates that the Tennessee Valley Authority has of surveying the economic welfare of the nation, have you taken into account whether the nation as a whole would be benefited by an industry

locating in the Tennessee Valley or locating at a point where it would get power from the Boulder Dam project?

A. I think my testimony is clear in that respect, that the country as a whole would benefit by the location of an industry in an industry-deficient region.

Q. Where do you expect this industry to come from that [fol. 1436] you want to have located in the South by reason of the rate adjustment you seek?

A. We are not advocating the removal of industry from any part of the country. I think my testimony is clear on that point. We say that industry in the future that will come by virtue of greater production could well be more located in the South than it has been in the past.

Q. So that your testimony relates only to non-existent industry or industry which you hope will be developed, and if developed will locate in the Tennessee Valley rather than in some other section of the country, is that correct?

A. No, sir. That is not correct.

Q. Then what is the fact?

A. I advocate locating industry in the Tennessee Valley.

Q. Or in the South, where it will draw power from the Tennessee Valley Authority?

A. I do not advocate that they locate where they would draw power from the Tennessee Valley Authority.

Q. Where do you advocate that industry locate?

A. I advocate that industry locate in the industry-deficient regions of the South and West.

Q. Rather than in Official territory?

A. If there is going to be an increase in industrial production such as we anticipate after this war, yes.

Q. In other words, is it your opinion that industrially [fol. 1437] Official territory should remain static and whatever new industries there are should locate either in the South or West?

A. I do not advocate any region remaining static. I advocate that more industrialization of the South and West would be beneficial for the nation as a whole.

Q. And less new industrialization of Official territory?

A. We can build on the principle of an expanding economy, and Official territory can expand with the rest of the nation.

Q. What do you consider the proper proportion of new industry which should locate in the South?

A. I have not attempted to say what proportion. That is something I do not think one man or one group of men could pass on.

Q. Then how are you in a position to say that the South is not now getting its proper proportion of new industry?

A. I do not think I said they were not getting their proper proportion. I am merely advocating a greater industrialization in the future.

Q. Do you think the South is getting its proper proportion, then, of new industry?

A. Particularly, the kind of industry I am talking about is the manufacture of higher unit value goods.

Q. Such as what?

A. Well, we will say such as radios, typewriters, and [fol. 1438] commodities of that class that are not now produced in the South. I just picked those at random.

Q. What would you say would be the proportion of typewriter manufacture that should locate in the South?

A. I have no idea. I have not made any study of what the proportion should be. There is none manufactured there now. They could probably get the labor and materials to manufacture some. There is no textile machinery manufactured in the south, for instance, although there is a great market for it.

Q. What proportion of textile machinery do you think should be manufactured in the South?

A. Mr. McCollester, I have not attempted in any category to say what proportion.

Q. Yet you have said very freely that there is a deficiency in the South. How can you say that, if you cannot say what would be the proper proportion?

A. I think you could say there is a deficiency, when one exists, very easily. There is no more than a very small proportion of the textile machinery manufactured in the South. That is a fact that I am testifying to.

Q. I thought you were testifying that there was a deficiency as compared with the economically ideal setup; was that not the purpose of your testimony?

A. I do not believe I set up any economic ideal in my [fol. 1439] testimony.

Q. Then all of your testimony is not to be construed as expressing your views of what is economically sound for the country as a whole?

A. I think just the opposite. I think it expresses what I believe to be sound.

Q. You know that there is a Federal project that has been much discussed in the press, do you not, for power development of the Niagara River?

A. Yes.

Q. You have heard about that, have you not?

A. Yes, sir.

Q. If that should come into being, would that change your idea as to whether the general welfare of the country would be promoted by the movement of industry to the South, or the housing of new industry in the South, rather than in the territory served by the St. Lawrence Power Development?

A. I do not see that that has any relation at all to my testimony.

Q. Supposing there were a new typewriter plant that was looking for a place to locate which would be in the best interests of the country as a whole economically, and supposing the Niagara River power project developed by the Federal government, with Federal funds, like yours, were in operation: should that typewriter factory in the interests [fol. 1440] of the whole country locate in New York State or in the Tennessee Valley?

A. I do not think the location of power developments as you state them has any relationship to typewriter manufacture.

Q. Is it your testimony, then, that it would be in the interests of the country that the new typewriter plant locate in the Tennessee Valley?

A. Not necessarily in the Tennessee Valley.

Q. Or somewhere in the South?

A. The South or West, in an industry-deficient region.

Q. It has been your desire, has it not, to be entirely fair and impartial in your survey?

A. I tried to be fair, yes, sir.

Q. Have you in your discussion of your exhibits as an economist tried to be entirely fair and to give the Commission all of the analyses which an economist should properly put before the body as to the inferences to be drawn from the figures shown in your Exhibit No. 76?

A. Mr. McCollester, that is a rather broad question. All of the testimony that an economist should put in is a

mighty broad question. I do not know that I could cover the entire field.

Q. On page 7 of your Exhibit 76, you show the territorial division of national income for 1940.

A. Yes.

[fol. 1441] Q. Does that include corporate income as well as individual income?

A. Yes, sir. I think it does. It is income paid out.

Q. Do you attribute, looking at the line after the State of Delaware, the per capita income of the state of Delaware to the fact that the industries located in that state, actually manufacturing in that state, provided that income for the inhabitants of that state?

A. I think so, yes, sir.

Q. Is it not a fact that Delaware is the corporate home of a great many of our largest corporations?

A. Yes, sir, but these figures have taken that into account. These figures as published by the Department of Commerce, attempt to distribute the income to the residents of the state that received them, and not the place that they were actually paid out.

Q. But I thought you said that corporate income was taken into account.

A. Income that is paid out and received is taken into account.

Q. There are many corporations incorporated in Delaware which report from Delaware, which have plants in the South, are there not?

A. Yes, sir.

Q. Now, you have not told the Commission your views as to the extent to which the per capita income figures shown [fol. 1442] for the several states, and particularly the Official states, are due to the service industries, so-called, rather than to the manufacturing industries. Have you any data or opinion as to that?

A. No, sir. I have not attempted to break that down into its components. The occupational specializations of Official territory are shown in the other table. It gives some idea of that breakdown.

Q. You did not have the slightest idea in the world, then, of having the Commission draw the inference from your

page 7 of this exhibit, that the fact the per capita income of the state of Connecticut, for example, $855, Connecticut being the insurance capital of the country, was due entirely to manufacturing industries located there rather than to the income produced by service industries?

A. The table I believe is headed "Territorial division of national income". It shows that division. There is no attempt in this table to show what is the breakdown of that $855 that you referred to, but we have, generally speaking, attempted to show what are the predominant occupations in the several territories. That gives a rather rough idea of the specialization.

Q. It is a fact, is it not, that for example in my state, New York, there is a very large concentration of so-called service industries, banking, professions, and so forth?

[fol. 1443] A. Yes.

Q. They have contributed in very large part, have they not, to the income level of the state?

A. Yes. I think that is true.

Q. Therefore you cannot say from your page No. 7 and you would not want the Commission to infer that the fact the per capita income, average per capita income in New York of $855 exceeds the per capita income of the Southern states, is attributable entirely to the fact that more manufacturing industries have located in the state of New York?

A. I think that is true, that the state of New York has more manufacturing industry than the average southern state.

Q. But it has a larger population also, has it not?

A. It has a larger population, and I think the standard or level of living in New York is much higher than in the south.

Q. And the cost of living is much higher, is it not?

A. Not too much.

Q. Very much, is it not?

A. I do not think——

Q. Can you give me the ratio?

A. The Bureau of Labor Statistics have made some studies which show that the cost of living in groups of north-

ern and southern cities vary only from 3 to 5 per cent, higher in the north.

Mr. McCollester: Well, coming back to my question:

[fol. 1444] By Mr. McCollester:

Q. You do not want the inference drawn by the Commission, I assume, that the difference in the per capita income figures shown on page 7 of your exhibit as between the northern and southern states, is due entirely to the differences in the concentration of manufacturing?

A. Only to the extent that the manufacturing is more concentrated in Official territory than it is in the South, and I think the record shows that 75 per cent is there concentrated.

Q. Did you make any examination in considering New York State, to see how the number of manufacture unemployed in New York States compares with the number of manufacture unemployed in the southern states?

A. No, sir, I did not.

Q. Also, in your desire to be entirely impartial, was it in carrying out that idea that on page 19 of your prepared statement you made the statement to which Mr. Porter has referred, that the South and West have nearly 95 per cent of the country's available ore?

A. That is from Dr. Stevens' exhibit, I believe.

Q. From the standpoint of the South, do you think that that is a fair presentation of the fact?

A. The South, of course, does not have any such proportion as that of the country, that I know of, no.

Q. Now, you have, throughout your testimony, talked about the large volume of raw materials in the south and [fol. 1445] the relative proportion of the raw material industries to the manufactured industries in the south as compared with the North; but the fact is, is it not, Mr. Spotswood, that the raw materials available for manufacturing are in absolute quantity, with some exceptions, very much less in the South than in the northern states? For example, although you have iron, you do not have it in any such quantity as the iron ore available for manufacturing in the North, do you?

A. You have reference there particularly to the South?

Q. Yes, sir.

A. No, we do not. We have quite a large deposit in Birmingham, the Birmingham area, but it is not as large as the Mesabi deposit.

Q. You do not have coal available in such quantities as we have it in the North, do you?

A. I am not prepared to state just what the reserves are, but they are quite large in the South. I think Dr. Stevens shows that in the South and West—he shows what the proportions are.

Chairman Aitchison: Where did Dr. Stevens place the coal of the Pocahontas region, in which area, the South or North?

Mr. McCollecter: I do not recall.

The Witness: I do not recall that, either.

By Mr. McCollecter:

Q. How about sand for glass-making?

[fol. 1446] Mr. Norman: Mr. Chairman, I think he put it in the South, but I would not know definitely.

The Witness: There are quite large deposits of sand suitable for glass-making in the South.

By Mr. McCollester:

Q. But nowhere near the quantity that there is in the north, is that not true?

A. They are undeveloped.

Q. Can you tell me how they compare with northern figures?

A. No, sir, I cannot, but I know there are large deposits that could support a large glass industry if we had one.

Q. Now, is it your general idea that it is in the interests of the country as a whole that instead of raw materials or the semi-manufactured products being transported to markets, manufacture should take place locally in the South and the finished goods transported from the South?

A. I think that would benefit the income of the South and——

Chairman Aitchison: The question is, is that your position?

Mr. McCollister: Yes.

By Mr. McCollester:

Q. Is that your position?

A. I misunderstood you. Would you mind repeating the question?

Mr. McCollester: Read the question to the witness, please, Mr. Reporter.

(Question read.)

[fol. 1447] A. I think that it would be beneficial—my position is it would be beneficial to the nation as a whole to have more manufacturing. A much better base of income could be established for the South and West.

By Mr. McCollester:

Q. Well, now, the outbound movement of the raw materials or the semi-manufactured materials from the South into the North of which you are complaining, could be stopped by raising the rates on the outbound raw materials, could it not, to make it more profitable for industry to manufacture in the South than to buy their raw materials in the South?

A. That would be a rather extreme measure. I suppose it could be done.

Q. Why would it not be a better measure than that which you advocate?

A. I do not think I would subscribe to that position because I am not advocating anything that would make drastic changes.

Q. But you do advocate a drastic change in the rate structure, do you not?

A. I do not advocate it to be done overnight.

Q. Well, how would you have the rate structure changed, then?

A. I am not qualified to say how the rate structure should be changed.

Chairman Aitchison: I thought you did advocate that [fol. 1448] the rate structure should be changed all at once.

The Witness: Well, Mr. *Witness*, I do not think—at least, I do not want my statement to mean that the thing should be done anyway, except as the Commission can work it out. I assume that the Commission will take into con-

sideration the effect that a sudden change would have on the economy of the nation.

Mr. McCollester: Well, I am very glad to hear that.

By Com. Alldredge:

Q. Are you talking about the rate structure as a whole, or just part of it?

A. I thought the Chairman's remarks were intended to mean the part of the rate structure I was discussing in my testimony, which is largely the class rate structure.

Chairman Aitchison: Proceed, Mr. McCollester.

By Mr. McCollester:

Q. Now, the North does not have the kind of agricultural industry that you have in the South, does it?

A. No.

Q. You cannot grow cotton in the North, can you?

A. No, sir.

Q. You cannot grow fruits and vegetables in the North in the wintertime, can you?

A. No, sir, you cannot. You cannot grow fruits and vegetables in a large part of the South in the wintertime.

Q. But you can grow them at times when they cannot be [fol. 1449] grown in the North, can you not?

A. Well, not necessarily. It is not greatly different in parts of the South.

Q. Are you trying to be frank, or are you trying to be clever and dodge me?

A. I am answering your questions.

Q. The fruit and vegetable industry is an important industry for the South, is it not?

A. Yes, some parts of the South.

Q. Yes. So is the cotton industry, is it not?

A. Yes, sir.

Q. Would the South benefit if the purchasing power of the North were so diminished that they could not buy the agricultural products of the South?

A. I do not think the South would benefit under those circumstances, no, sir.

Q. You are not advocating anything that would have that result, are you?

A. No, sir.

Q. You are not advocating anything that would cause a shift of any industry now located in the North, to the South?

A. No, sir.

Q. And you think it would be disastrous for an industry which is now in the North to transfer its production to the South, do you not?

[fol. 1450] A. I did not say it would be disastrous.

Q. It would be unfortunate, would it not?

A. It depends on the circumstances.

Q. Do you sell as many of the products of the South in the city of Utica as you did before the textile industry left Utica and left thousands of unemployed there?

A. I have no personal knowledge of the conditions in Utica.

Q. You do not want to have unemployment created in the North because that would be bad for the South also, is that not correct?

A. That is correct.

Q. Now, in your prepared statement you made a remark which prompted an objection on my part at the time you made it, to the effect that you were stating a principle that is accepted by most students of the national economy.

A. Which page is that on?

Q. The top of page 15, the very top.

A. Yes.

Q. Will you just give me the names of the students of the national economy and their writings that you referred to when you made that statement?

A. Well, I think a good many economists——

Q. I just asked you what their names are, please.

A. I am coming to that.

Q. I do not want a general statement. I want you to [fol. 1451] answer my question correctly.

A. I am coming to some names, if you will give me a chance. Many economists are advocating more or less the same position I have advocated here. I could name [fol. 1452] Alvin Hanson, Gardner C. Means and M. L. Wilson of the Department of Agriculture.

Q. Where are the other gentlemen that you named located?

A. Hanson is with the Federal Reserve Board, I believe, if I am not mistaken.

Q. Where is he located?

A. Washington.

Q. Yes.

A. Gardner Means—I am not sure where he is now.

Q. Do you know what his connection is?

A. I think he is employed by the government, or was at one time. Stewart Chase and David Cushman Coyle, I believe, would subscribe to that.

Com. Alldredge: Where is he located?

The Witness: I think, Washington, the last time I heard of him.

By Mr. McCollester:

Q. Is he a government employee?

A. No, sir.

Q. What is his business connection, if any, or professional connection?

A. He has published a good many publications on economics. I presume he is a practicing economist.

Q. Are those the men you had in mind, or can you name some others?

A. I could, but——

[fol. 1453] Chairman Aitchison: You could name George Farrall, could you not?

The Witness: Yes, sir.

Chairman Aitchison: We will suspend at this time. We are somewhat behind in our schedule. Therefore we will reconvene at 1:30 p.m. instead of 2:00 o'clock p.m.

(At 12:30 o'clock p.m., an adjournment was taken until 1:30 o'clock p.m.)

Afternoon Session

The hearing was resumed pursuant to recess.

1:30 P.M.

Chairman Aitchison: You may proceed, Mr. McCollester.

A. D. Spotswood resumed.

Cross-examination (Continued.)

By Mr. McCollester:

Q. Mr. Spotswood, just that the record may be clear, or at least my understanding of it may be clear, you have testified as I recall that you recognize that the rates on

raw materials, pig iron, for example, within the South, are generally on a lower level than the rates on the same raw materials within Official territory?

A. I did not specify lower. I think I said, more or less the same.

Q. But there are a great many rates that are substantially lower, are there not, within the South?

[fol. 1454] A. I am not——

Q. Distance considered?

A. I am not aware of that.

Q. You have not examined to see whether the pig iron rates within the South are lower than the pig iron rates within the North?

A. The level of rates, it is my understanding, on pig iron, are shown on my exhibit.

Q. You have shown rates from the South to the North, but you have not shown rates from the southern pig iron furnaces to users of pig iron in the South, have you?

A. No, sir.

Q. Do you know how those compare with the rates for the movement of pig iron to users of pig iron in the North?

A. I am not generally familiar with them, no, sir.

Q. You are not aware that they are substantially lower?

A. No, sir.

Q. If they are lower, would you advocate that they be brought up to the official level in order to create rate parity within the two territories?

A. My remarks in regard to that question dealt with class rates.

Q. Well, do you think that an equality of economic opportunity will be produced by dealing only with the class rates and not by bringing about an equality of the rates on the raw materials?

[fol. 1455] A. That has to do——

Q. Can't you answer that "Yes" or "No"?

A. I do not think it requires a "Yes" or "No" answer. I would like to clarify it if I may.

Q. All right.

A. Your question had to do with the whole rate structure, as I understand it, and not with the class rates. My remarks, or my testimony deals with the inhibiting effects of the class rate structure and the opportunity that is

lacking in the South because of these class rate structures, to develop a diversified manufacturing.

Q. You have not given any attention in your general unbiased economic study to the freight rates on raw materials as they may affect the competitive ability of industries in different parts of the country, is that correct?

A. I have not given a comprehensive study of the rates on raw materials.

Q. Have you given any study to the rates on raw materials within the South?

A. In so far as the rates are shown on my exhibit, yes,

Q. That is the extent of your study?

A. Well, of course, we examined more rates than those particular ones, and I think I stated my position generally, that the rates are more or less on the same level in the South as in the North. That is my understanding of it—[fol. 1456] the rates on raw materials.

Q. If it should so appear that the rates on pig iron or limestone or brick or lumber or other heavy loading raw materials are materially lower in the South than in the North, would you advocate rasing the rates within the South to the Northern level?

A. No, sir.

Q. Do you consider that the rates within the North on manufactured articles like typewriters, to which you have limited your study, should be raised to the Southern level if they are lower, and that whatever adjustment develops, or remaking of the economic map of the country is to be made in freight rates, should be accomplished in that way?

A. I am not qualified to state how the adjustments should be made. My statement, I think, deals with the fact that there should be equality of opportunity.

Q. Did you consider in studying the economy of the country, what the effect on the railroads' revenues would be of bringing about equality by reducing the rates of the Southern railroads?

A. That is a very difficult question to get at, as I did not have any measure of the amount of freight that was affected by the class rates directly.

Q. Your answer is "No", then, is it, Mr. Spotswood?

A. Would you mind repeating the question?

[fol. 1457] Mr. McCollester: I will ask the reporter to read the question.

Chairman Aitchison: The question is whether or not you made any study of the effect of a reduction in the Southern rates on the railroads' revenues.

The Witness: No, sir.

By Mr. McCollester:

Q. The railroads are important factors in the economy of the South as well as of the North, are they not?

A. Yes, sir.

Q. Railroad employees constitute a considerable part of the buying public in both territories, do they not?

A. Yes, sir.

Q. You have not studied the economic effect of any rate change on the railroads in either territory; that is correct, is it not?

A. Because I did not have the material with which to study.

Q. The answer is "No"?

A. The answer is "No".

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Proceed, Mr. McCollester.

By Mr. McCollester:

Q. Is it not a fact, Mr. Spotswood, and have not your exhaustive economic studies indicated to you that the [fol. 1458] measure of the freight rates, or difference in freight rates, is a more important factor in determining ability to ship and therefore in location of plants in the case of low-grade materials than in the case of high-grade finished products that sell at relatively high prices?

A. Ability to ship the low-grade finished products—or rather, the low-grade materials?

Mr. McCollester: Read the question to the witness, please, Mr. Reporter.

(Question read.)

The Witness: My question, Counsel, is whether you had reference to the shipping of low-grade products, or low-grade materials? Is that what you had reference to?

Mr. McCollester: I think my question is perfectly clear, if the witness will listen to it.

Chairman Aitchison: It is not to me.

Mr. McCollester: I can only restate it.

Chairman Aitchison: I cannot figure out from your question whether you are dealing with low-grade manufactured products, or low-grade manufactured products versus high-grade manufactured products.

Mr. McCollester: Well, I will confine my question—let me reframe the question.

Chairman Aitchison: Very well.

By Mr. McCollester:

Q. Is it not a fact that differences in freight rates are [fol. 1459] of less importance in determining ability to sell in the case of high-grade manufactured goods selling at high prices, than in the case of goods where the mar[redacted] between production cost and sales price is very low?

A. Yes, sir.

Q. The commodities, the rates on which you are concerned with here, are the high-grade manufactured products?

A. Yes, sir.

Q. On page 15 of your exhibit 76 you purport to show what you call the burden of absorbed freight charges on profits of Southern and Western manufacturers. I note that you have there one commodity, white laundry soap. Do you know whether climatic conditions are a factor in the commercial manufacture of soap on a large scale? That is, I mean by factories as distinguished from small home soap making.

A. No, sir, I do not.

Q. Is my understanding correct that in the column on that page headed "Per cent impairment of net profit", you have undertaken to show the ratio which the freight rate spread bears to the profit?

A. Yes.

Q. As to each of those commodities?

A. Yes, sir.

Q. That profit which you have shown there is the profit after freight charges have been paid, is it not?

[fol. 1460] A. That is the ratio profit to sales.

Q. Yes. In every one of those instances, the profit figure you have derived from figures as to the statements of profit

of the various companies which you have listed which are profits after the payment of freight charges?

A. These figures are taken from the books of the companies and I assume these freight charges are part of the operating expense.

Q. So instead of the profits being impaired, the profits that are shown are profits after freight charges have been paid?

A. I think there is still an impairment.

Q. What is that?

A. I think there is still an impairment.

Q. Is it not a fact that Dun & Bradstreet, or whatever authority it is that you used here, shows the net profit of the companies after all of their expenses including any freight they pay?

A. Yes.

Q. You cite one example of a concern producing sweet potato starch. Do you desire to have the Commission conclude that the freight rates have been an impairment to the business of that concern?

A. I think the facts are as stated there. That company is doing business and is making a small profit.

[fol. 1461] Mr. McCollester: Read the question to the witness, please, Mr. Reporter.

(Question read.)

A. There is an impairment to the extent that their competitive position is a little worse than it would have been if they had not had a difference in freight charges.

By Mr. McCollester:

Q. If freight rates, or the measure of the freight rates is important to that concern, how do you account for the fact that by far the greatest volume of its shipments, 153,400 pounds, moved to Lawrence, Massachusetts, which was the next to the most distant point shown on the exhibit?

A. They were able to ship their starch up there because it was a good product.

Q. In spite of the freight rates?

A. Yes, sir.

Q. Yes.

A. I am merely citing this example to show how much better off they would have been if they had a lesser level of freight rates.

[fol. 1462] Q. Now, you have cited the manufacturer of cornstarch as a competitor of this sweet potato starch. Did I understand you correctly?

A. Yes.

Q. Is it not a fact that there is a large cornstarch plant at Kansas City, there is another one at Clinton, Iowa, and there is another at Keokuk, Iowa, or do you know?

A. I do not know.

Q. Your economic study did not go that far?

A. I assume you are correct. I would not deny it.

Q. Now, if it should so happen that the Commission should decide that the rates on typewriters and other high-grade manufactured articles from the South to the North should be reduced, would you consider from an economic standpoint that the same freight rate levels should be made applicable from the North to the South so that the northern manufacturer of those commodities could ship on an equal basis to southern buyers?

A. I think the freight rate should be the same in both directions, yes, sir.

Q. In that regard you speak for the Tennessee Valley authority?

A. Yes, sir. I speak for the Tennessee Valley authority.

Q. Has there been a different view expressed in the past by or on behalf of the Tennessee Valley authority [fol. 1463] advocating the destination rate level?

A. I do not know that it has been advocated, no, sir.

Q. You are familiar with the interterritorial freight rate study to which I refer, are you not?

A. Yes.

Q. Do you disagree with that?

A. That study was merely, as I recall it, in the nature of a suggestion of several ways in which the problem might be solved.

Q. Do you disagree with the destination rate theory?

A. I am not advocating any theory now.

Q. In other words, you neither agree nor disagree, is that right?

A. I do not think I have to take a position on that report.

Mr. McCollester: I did not ask you to take a position on that report.

By Mr. McCollester:

Q. I am asking you what your own views are as an economist. Do you advocate it or do you not?

A. Advocate the destination rate level?

Q. Yes.

A. No, sir.

Q. Do you know an economist by the name of Henry B. Klein?

A. Yes.

Q. Is he an associate of yours?

A. Yes.

[fol. 1464] Q. Did you collaborate with him or he with you in the preparation of your written statement?

A. Yes. He is a member of my staff.

Q. Are you familiar with a paper published by him under the imprint of the Vanderbilt University Press?

A. Yes.

Q. That publication in general follows the line of your prepared statement here, does it not, or your prepared statement follows the line of this essay?

A. The same thesis, I think.

Q. On page 32 of this paper I read the following——

Mr. McCarthy: Mr. Chairman, if counsel is attempting to test the qualifications of the witness by interrogating him as to other works on this subject, we have no objection; but if this cross-examination is designed to quote Mr. Klein as stating the official view of the Tennessee Valley authority, then I will have to object unless it is shown that this is an official publication of the Authority.

Mr. McCollester: I intend to ask the witness if his information is in accordance with what I am about to read.

Chairman Aitchison: You can ask him that question.

Mr. McCollester: What is that?

Chairman Aitchison: Put that in your question.

By Mr. McCollester:

Q. Is your information in accordance with the following which I quote from the paper of Mr. Henry B. Klein whom [fol. 1465] you have identified, who signs himself as

"Associate economist, Tennessee Valley Authority", being published by the Vanderbilt University Press, April, 1942: "If considerations of expediency should somehow make the specific relief"—that is, the readjustment of freight rates discussed—"unwise or infeasible within a reasonable period of time, then it may be confidently expected that the South and West will either seek relief by specific Act of Congress or raise the cry for nationalization of railroad ownership and rates, or both. Such last-ditch measures are not new in southern and western political history". Is that in accordance with your information?

Mr. McCarthy: That is not an expression of any——

Chairman Aitchison: Sustained.

Mr. McCollester: No further questions.

Chairman Aitchison: Are there any other questions of Mr. Spotswood?

Mr. Gwathmey: I have a few questions, Mr. Chairman.

Chairman Aitchison: Mr. Gwathmey.

By Mr. Gwathmey:

Q. Mr. Spotswood, if I correctly understand your testimony, you have stated very frankly that you are not a rate expert and that you are neither opposing nor advocating any specific scheme of rate adjustment for the purpose of bringing about this equalization of industrial opportunity, which you consider desirable. Is that correct?

[fol. 1466] A. That is correct. I am merely advocating that a system which gives equal opportunity be put into effect.

Q. You have further made it very clear that you have made no studies for the purpose of testing the effect of any particular scheme of rate readjustments upon the revenues of the southern railroads, have you not?

A. That is correct.

Q. You have further made it clear that your interest in the welfare of southern industries includes likewise the welfare of southern railroads. I would like to ask you this question: Would you, or your principal, the Tennessee Valley Authority, be disposed to advocate any rate readjustment if its effect would be to impair seriously the revenues of the southern railroads?

A. I think you ask me a question which is a rather broad one in that the words "impair seriously" would have to

be determined by the Commission and until such determination of how serious these impairments would be, it would be difficult to answer. What I am trying to say is that when you make a change in rates, naturally it is going to affect the revenues of the railroads to some extent.

Q. Yes.

A. It is a question of degree, I think, and how serious the change would be, I am not in a position to say.

Q. You would not, however, be disposed to see a serious [fol. 1467] disruption and breaking down of the revenues of these railroads, would you?

A. No. I do not think that would be advocated at all.

Mr. Gwathmey: That is all.

Chairman Aitchison: Is there any further cross-examination?

Mr. J. R. Bell: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. J. R. Bell.

By Mr. J. R. Bell:

Q. Mr. Spotswood, you mentioned certain economists who you said agreed with some of your positions. Can you state the names of any who disagree with you?

A. I suppose there are some. Offhand I cannot recall them.

Q. On page 21 of your statement you say that it is sometimes contended that even after allowing for all transportation costs, the location of three-fourths of the country's manufacturing in official territory is more economical than a more widely dispersed production would be. Then you say, "I do not accept this contention". Who made the contention referred to? Is that a position of economists?

A. Yes, it is. The name escapes me for the moment. I can supply it a little later.

Mr. J. R. Bell: I do not care to pursue it if you do not recall.

By Mr. J. R. Bell:

Q. A similar statement appears on page 23, reading as [fol. 1468] follows: "Arguments that the existing extreme specializations by the several regions are good economically also overlook the merits of diversity." Those arguments

are arguments made by economists disagreeing with your position?

A. Yes, sir.

Q. As I understood you in response to a question asked you on cross-examination, you say you are not advocating any shift of industry from the North to the South.

A. That is right.

Q. Is that correct?

A. That is correct.

Q. On the first page, at the outset of your statement, you refer to what you call "economic maladjustment which interferes with the orderly development of the resources of the South and West and through them of the whole nation."

A. Yes.

Q. Referring to this statement which I read a moment ago on page 21, how do you reconcile that with your statement on cross-examination that you are not advocating a shift of industry or any part of it from the North to the South?

A. I think that can be easily reconciled. The economic maladjustment I had reference to was only the over dependence of the South and West on raw materials production, keeping those regions in a relatively low income [fol. 1469] position which reflects in the national income. In other words, the South has already been called the No. 1 economic problem. I think it grows out of the fact that these regions need more income, more income from manufacturing. They cannot increase their prosperity, as I have said, by raising more cotton or more grain. They have need of something else. They need to develop their resources. The way to develop their resources is by having manufacturing come down there.

Q. In your opinion that will not reduce similar activities in official territory?

A. Not in an expanding economy.

Q. Now, you refer to the effect upon the nation.

A. Yes.

Q. In your judgment what should be the basis of the apportionment of manufacturing among the 48 states and the District of Columbia in the orderly development referred to by you?

A. I do not propose to solve that problem of how much industry should be located in each state. I do not think I am capable of that.

Q. Do you conceive that there is any difference from the standpoint of fundamental economic principle as between the states of Nevada and New Mexico and the states of Tennessee, Alabama and Georgia, for example?

A. Will you repeat the question, please?

[fol. 1470] Mr. J. R. Bell: The reporter will read it.

(Question read.)

A. I am sorry, sir, but I do not quite understand the question yet.

Mr. J. R. Bell: That is all.

Chairman Aitchison: Mr. Dougherty.

By Mr. Dougherty:

Q. In regard to page No. 24 of your exhibit No. 76——

A. Page 24 of the exhibit?

Q. Of the exhibit, yes.

A. All right.

Mr. Dougherty: We did not receive a copy of your statement.

By Mr. Dougherty:

Q. With respect to page 24 of exhibit No. 76, do you know whether there is a movement of these articles, either wood pulp, boards, wrapping paper, or newsprint between the points you show on your exhibit?

A. I could not be positive, no, sir. There are rates for the movement of those commodities.

Q. Do you know whether they are the same rates that are in effect from the producing points between which there is a movement?

A. Well, I am not a rate expert. I could not answer that question.

Q. Do you know whether the same basis applies, from, [fol. 1471] say, Atlanta, Georgia to Philadelphia, Pennsylvania, or Akron, Ohio as applies from points producing wrapping paper within the South?

A. No, sir.

Q. What do you mean by the term "pulp boards"? What is included in that item, please?

A. Whatever is described in the tariff.

Mr. McCarthy: Mr. Chairman, I think we made it very clear when the witness took the stand that he was not qualified on matters of this kind. As I stated then, Mr. Sheppard is available and we will be glad to present him for cross-examination on these questions.

Mr. Dougherty: He presented the exhibit. He certainly should have some information as to whether or not these commodities moved from these points.

Mr. McCarthy: On that particular question, yes, sir.

By Mr. Dougherty:

Q. Is there a newsprint mill at Memphis, Tennessee?

A. Not that I know of, no, sir.

Q. And no movement from there?

A. Probably not, if there is no production there. There should be one there, though.

Q. Is there a newsprint mill at Laurel, Mississippi?

A. Not that I know of.

Q. Any movement from there?

[fol. 1472] A. Probably not.

Q. Do you know whether there is pulp boards or wall board made at Greenville, Illinois?

A. I know that the Masonite Corporation has a plant at Laurel, Missisippi, but what the exact description of the commodity is, I do not know.

Q. Do you know whether or not there is a different basis of rates on wall board than there is on pulp board?

A. No, I do not.

Q. You do not?

A. No.

Mr. Dougherty: Thank you. That is all.

Chairman Aitchison: Are there any other questions on cross-examination?

Mr. Smelker: There is one question I would like to ask for clarification, Mr. Spotswood.

By Mr. Smelker:

Q. Refer to your page 5 of your exhibit, and to the first, fourth and seventh columns.

A. First, fourth and what?

Q. First, fourth and seventh.

A. Yes.

Q. Then refer to page 6 of your testimony where you speak of 10,627,000 tons and the corresponding figure in the first column is 10,627 tons. Which is correct?

A. Those expressed in thousands as the exhibit shows [fol. 1473] right up under the caption.

Mr. Smelker: I see.

By Mr. Smelker:

Q. Now, you state on page 38 of your statement that the establishment of class rate levels which would benefit no region is desirable. Just what do you visualize by that in so far as rate structure is concerned?

A. I visualize a substantially uniform class rate level that gives an equality of economic opportunity.

Q. What do you think is presently desirable as to general rate changes?

A. Well, my general position is, as I believe I have expressed it, that we are advocating a rate level that affords economic opportunity for all sections of the country to develop industry.

Q. Yes.

A. My testimony shows where, under the present situation, there are certain inhibiting factors.

Q. In other words, you want a gradual change rather than a quick change?

A. It is a question of degree, when you say "gradual" or "quick". The Commission, of course, is the person, or the body which will finally decide that. If the Commission in its wisdom thinks a quick change is desirable, that I think, would be very fine. If it desires to make it over a long period, I think that that would be desirable also.

[fol. 1474] Q. There has been testimony in this hearing to the effect that any downward adjustment of class rates might require some upward adjustment in commodity rates. As an economist have you any general comments to offer in that respect on this record?

A. Yes, sir. I think that a greater prosperity in the region will naturally mean a general creating of prosperity for all of the industries in the region which would result in more buying power and more flow of commodities, so that the railroads would also benefit from any prosperity created by greater industrialization, perhaps as the result of a rate adjustment, and in the long run it would not seri-

ously impair the position of the railroads. I am not making that as a specific statement, but rather as a general long-run statement.

Mr. Smelker: That is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Spotswood? (No response.) Have you any further questions, Mr. McCarthy?

Mr. McCarthy: No.

Chairman Aitchison: You are excused.

(Witness excused.)

Mr. McCarthy: Does anyone desire to cross-examine Mr. Sheppard?

Chairman Aitchison: Mr., who?

[fol. 1475] Mr. McCarthy: Mr. Sheppard.

Chairman Aitchison: Has he testified?

Mr. McCarthy: No, he has not. I suggested, though, that if there was any cross-examination, he would be available.

Chairman Aitchison: Do you desire to interrogate Mr. Sheppard?

Mr. McCollester: Mr. Chairman, I do not desire to interrogate him, but I do move to strike chart 3 and appendix C of exhibit 76 as irrelevant and immaterial unless and until it is shown that the rates there set forth are involved in this proceeding.

Chairman Aitchison: We will take the time later to find out how material they are. Mr. Dougherty, do you want to examine Mr. Sheppard?

Mr. Dougherty: No. I will cover it by rebuttal.

Chairman Aitchison: I beg your pardon?

Mr. Dougherty: I do not desire to examine Mr. Sheppard. I will cover it by rebuttal.

Chairman Aitchison: Apparently Mr. Sheppard's attendance is not desired. Whom do we hear next?

Mr. Norman: Mr. Chairman, as I understand the order that has been tacitly agreed upon, next to be heard is the testimony to be offered on behalf of the Southern Governors Conference. I will call Governor Cooper as our first witness.

[fol. 1476] Chairman Aitchison: Be sworn, please, Governor Cooper.

PRENTICE COOPER was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Governor Cooper, please state your full name and your present position.

A. My name is Prentice Cooper. I am governor of Tennessee and have been since January 16, 1939. I am a member of the Southern Governors' Conference and am also Chairman of the Committee having charge of the presentation to be made in this proceeding on behalf of the Conference. The other members of that Committee are Governor Melville H. Broughton of North Carolina and Governor Spessard L. Holland of Florida. Governor Holland is present with us here today.

If I may be permitted to say so, I personally appreciate the privilege of taking part in this hearing because I believe the revision of the freight rate structure to be one of the most important domestic issues before the United States today, when one considers the far reaching and beneficial results to the nation as a whole incident to the removal of the artificial regional trade barriers caused by discriminatory freight rates.

Our Committee of the Southern Governors' Conference speaks here for all those states in Southern freight rate territory except Kentucky, namely for Alabama, Florida, [fol. 1477] Georgia, Mississippi, North Carolina, South Carolina and Tennessee and in the name of those states we are asking for uniform class rates, mile for mile, east of the Mississippi River, and of course we would like to see just relief from discriminatory freight rates granted to all other regions as well.

Briefly, the organization of the Southern Governors' Conference began at least as early as 1934, when the Governors of the Southern States, because of the complaints of shippers, began to discuss among themselves methods to remedy the evils resulting to those states from an adverse freight rate adjustment. Finally in April, 1937, the Governors met with a large number of Southern manufacturers, mostly small, and industrialists, Public Service Commissions, and Senators, and Members of Congress to consider what might be done; and at that time the Southern Governors' Confer-

ence was organized. While the prime purpose for the organization of the Conference was to obtain relief from adverse rate adjustments, yet there were, and are, of course, many other purposes which the Conference seeks to accomplish. But we are here concerned with its activities only with reference to the rate situation. It was agreed at the original meeting that we should proceed before this Commission, rather than by any attempt to remedy the situation through legislation.

The steps we have so far taken in this respect were to [fol. 1478] first institute a case involving certain commodities, which is generally referred to in the South as the Southern Governors' Commodity Rate Case but which is officially reported as State of Alabama et al. versus New York Central Railroad Company, et al.—235 I. C. C. 255. The decision in that case gave relief on a number of commodities, but it did not result in removal of the freight rate barriers generally; and it was decided to press for an investigation such as is now in progress.

Consequently, the Conference did join a movement to secure amendments to the Interstate Commerce Act which would make clear the authority of the Commission to proceed with such an investigation as this and to grant the relief sought in a broad way. The results were the amendments to Section 3 of the Interstate Commerce Act which are contained in the Transportation Act of 1940, and which specifically authorize the Commission to remove discriminations against regions and territories and which authorized such an investigation as this. In this connection, I wish to repeat that it has at all times been the purpose of the Conference to leave the determination of matters involving freight rates to the Interstate Commerce Commission, and the only political or legislative action which we have sought has been such as would give the Commission full authority to grant the relief, from regional trade barriers, which we [fol. 1479] think not only are necessary as a matter of regional justice but necessary for national unity and national economic stability as well.

The Southern Governors' Conference has considered it proper to handle the matter of discriminatory freight rates, rather than leave them to be handled by the individual shippers because in the first place, it was represented to us, as a practical matter, it was not feasible for the individual shippers, and particularly the small shipper to carry on a pro-

ceeding necessary to secure relief; and, in the second place, we realized that until general relief is granted it is difficult, if not impossible, to persuade an industry to start in the South when it is confronted by an adverse freight rate adjustment and with no definite knowledge as to how or when relief can be secured. Furthermore, the individual shipper cannot be expected to carry on proceedings for the benefit of the general public, or the promotion of the general economic or industrial welfare; and we felt this should be done by the constituted authorities of the states.

I now wish to review some of the economic conditions prevailing in my state and the other Southern states which should be corrected and which in my judgment a removal of freight rate barriers would tend to correct. In the first place, let me say, of course, that I realize that all of our economic ills are not due to, and will not be corrected by, [fol. 1480] freight rate adjustments. However, we believe that freight rate disadvantages contribute to these conditions, and that the removal of these disadvantages would contribute to their correction.

At the outset it is well to note that the economic ills of the South are not due to any lack of physical resources. That the South possesses a great wealth of natural resources is, of course, well known, and it will be sufficient for our purpose here to refer only briefly to the fact that the South, including the thirteen states generally recognized as such, has one-half of the land where there is a frostless growing season of six months in the year. The soil of the South is rich and of great diversity, growing a wide variety of products. The South contains more than a third of the nation's first-class farming acreage. The South has two-thirds of all the land in America receiving a forty-inch annual rainfall or better. The South possesses forty per cent of the nation's forests. The South has more than three hundred different minerals, contains more than a fifth of the nation's coal, and mines more than a tenth of the nation's iron ore annually. It produces two-thirds of the nation's crude oil; it furnishes one-half of the nation's marble; Texas and Louisiana produce ninety-nine per cent of the nation's sulphur and Florida and Tennessee produce ninety-seven per cent of the nation's phosphates.

[fol. 1481] As was stated by a special committee named by the President of the United States to study economic con-

ditions in the South, which is a report of the National Emergency Council, dated July 25, 1938, which statement I adopt as my testimony:

"The paradox of the South is that while it is blessed by Nature with immense wealth, its people as a whole are the poorest in the country. Lacking industries of its own, the South has been forced to trade the richness of its soil, its minerals and forests, and the labor of its people for goods manufactured elsewhere."

The 1940 United States Census showed that the per capita wealth of the Southern states in Southern freight rate territory is $1,161, which is less than one-half of the national average which is $2,335. This census also shows that the per capita income for the states represented by the Southern Governors' Freight Rate Conference is only $317 per year compared with $573 per year for the nation as a whole.

The Southern state governments themselves are, financially unable to provide such benefits for their citizens as other state governments of the nation are able to provide. For instance, the states in Southern freight rate territory are only able to pay an average of $10.60 for old age assistance, whereas the national average is $21.75. This comes about from the inability of the Southern states to put up [fol. 1482] their half of the money to match Federal funds. The value of school property per enrolled pupil in the states we represent is only $124 as compared to an average for the United States as a whole of $300.

The Southern Governors' believe that the discriminatory freight rates now in effect operate to discourage and exclude industry in the South, and keep the South a raw material producing region and consequently a low-income region, and thus contribute to produce the economic ills of the South.

I again would like to emphasize that the plea of the Southern Governors' is much more than a plea before this Commission for regional justice and equality—it is a plea also for national unity and for national economic stability. It has been well said in House Document 271 of the 76th Congress, that:

"Those who welded the indissoluble union of states found that the policy of creating a national commerce and protecting it from artificial barriers was the touch-stone of the

birth and growth of a nation. Allegiance to that fundamental policy today demands the adjustment of these regional freight rate structures to remove discrimination which obstructs and distorts the flow of commerce and inhibits a natural economic development of the national resources."

And again quoting from this document:

"It was also established that a peremptory obstruction [fol. 1483] to nation-wide participation in the fullest economic development is to be found in the differences between the comparatively low level of rates for transporting freight within the principal consuming area of the country, located generally north of the Ohio and Potomac Rivers and east of the Mississippi (known in transportation terms as Official, or Eastern, Territory) and the contrastingly high general level of rates in effect from Southern, Southwestern and Western Trunk-Line Territories to Official Territory. As a result of this discriminatory situation, industrial development in these outlying regions is impeded, leaving the people slight alternative to engage in basic economic pursuits other than raw-material production. * * *"

"* * * lower freight rates are available for the movement of manufactured products, processed goods, and some raw materials from Eastern Canada into Official Territory than are available to shippers in Southern, Southwestern, and Western Trunkline Territories in reaching the principal markets to be found in Official Territory."

I would like now to state some reasons why the Southern Governors have resisted all attempts to have this case delayed or abandoned. As Governor Broughton of North Carolina stated: "We in the South have already waited through two wars and three depressions to get the discriminatory freight rates eliminated and we don't want to wait through another war."

However, I want to say that the members of the Southern [fol. 1484] Governors' Conference are acutely aware of the necessity for an all out prosecution of this war, and, as public officials, would be the last to do anything that would interfere therewith. In fact, we are devoting all of our time and the resources of our states in both materials and manpower, to this end. We have felt, however, that through this proceeding justice could be done by relief from discrimina-

tory freight rates, without detriment to the war effort, and that the relief which we seek will be equally imperative at the conclusion of the war.

The present heavy movement of traffic between freight territories only serves to emphasize the present need to relieve the regions discriminated against by taking down the rate barriers. Also the recent increases in rates served to increase the discrimination in rates from which my section was already suffering.

It should further be taken into account that many war industries have been built throughout the country for the most part with Government financing. While only a relatively small portion of such plants are located in the South as compared with the North, yet there are a sufficient number to make it all-important that they continue in peacetime operation. We have felt that unless a rate pattern is to be established that will be immediately available at the conclusion of the war and will give the plants now engaged [fol. 1485] in war production an opportunity to survive in peace time operation, there would be little hope that such plants would continue to operate. For these reasons we believe an early determination of the issues here involved to be in the national interest.

Q. Does that conclude your statement, Governor?

A. Yes, sir.

Mr. Norman: You may ask him.

Chairman Aitchison: You may cross-examine.

Mr. Bee: I have one question, perhaps more in the line of direct.

Chairman Aitchison: Mr. Bee.

By Mr. Bee:

Q. Governor Cooper, on sheet 1 you state, "We are asking for uniform freight rates, mile for mile"——

Mr. Norman: He changed that to "class rates".

Mr. Bee: —"east of the Mississippi River".

Mr. Norman: He changed that to "class rates".

By Mr. Bee:

Q. Do you mean by that, you are advocating a system to be set up for different rates east and west of the Mississippi River?

A. Of course not. I stated on page 1 that we would be delighted to see just relief from discriminatory freight rates granted to all other regions as well. That includes the southwestern states, the West and the whole country.

Mr. Bee: Thank you.

[fol. 1486] Chairman Aitchison: Mr. McCollester.

Mr. McCollester: Governor Cooper, I have just one question, or one point to ask you about.

Cross-examination.

By Mr. McCollester:

Q. You have throughout your statement referred to the freight rate situation as "discriminatory" and have stated that you seek relief from the discriminatory situation. Now, of course, whether the freight rate structure is discriminatory or not is a question of fact and law to be determined by the Commission here and when you have used that term "discriminatory" in describing it, you are simply expressing your own feeling in the matter, I take it?

A. We know that in many instances—I know personally that many of our rates are unequal. We have seen the, I will say, devastating effect of them in the South, and to that extent I will say that they are discriminatory. Of course, to what extent is left to the Commission.

Q. That we may all understand just where we all do stand on this matter, I assume that the Southern Governors having very properly taken the matter to the Commission, if it should so happen that the Commission should decide that the difference in freight rates is not discriminatory, will bow to that decision as we would have to bow to a different decision?

A. Of course I meant what I said in my statement that our course has been to appeal to this Commission for relief, [fol. 1487] and not to seek legislative relief.

Q. Did you hear the excerpt that I read from an essay by Mr. Henry B. Klein, assistant economist of the Tennessee Valley Authority, in which he stated that it was to be expected that if the Commission did not accord the readjustment of freight rates promptly that they sought, that some form of direct action such as the nationalization of railroads, or otherwise, would be sought?

A. That may reflect Mr. Klein's personal opinion.

Q. I take it that the Southern Governors repudiate that as being an incorrect statement of their position?

A. That is not our position.

Mr. McCollester: Thank you.

Mr. Norman: In that connection, Mr. Chairman, I want to say that I do not want by this examination to permit Mr. McCollester to close the door to me if this Commission should decide this case against me. There are other courses to pursue. I shall go to court and do other things. I do not want the record to indicate that there is nothing further that might be attempted.

Mr. McCollecter: What other courts do you have in mind, Mr. Norman?

Mr. Norman: What?

Mr. McCollester: What other courts do you have in mind?

Mr. Norman: You know what courts constitute the courts [fol. 1488] of the United States, don't you?

Mr. McCollester: Yes. I think that I agree with you. They are open to everybody—I hope.

Chairman Aitchison: I do not think you would have very good luck after the Commission spoke.

Mr. Norman: Which makes it even more necessary for the Commission to be right when it speaks.

Chairman Aitchison: Are there any other questions of Governor Cooper?

Mr. Widell: I have a few questions, Mr. Chairman.

Chairman Aitchison: Mr. Widell.

Mr. Widell: Governor Cooper, you are my governor.

The Witness: Yes, sir.

Mr. Widell: I hold you in high esteem and due affection, so you will understand that the relatively simple questions I ask are more for clarification of the issues. While it is commonly known that as one of the representatives of the industrial interests in Tennessee, a position perhaps which I have occupied for some years, my views and those of my associates are not directly in accordance with yours, still those are matters of differences of honest opinion, and I make that statement so there will not be any misunderstanding.

The Witness: Yes, sir.

By Mr. Widell:

Q. We wonder, and would like to have you say to the [fol. 1489] Commission in view of the broad statement you have already made on behalf of yourself and the government of Tennessee, a great commonwealth of which I am a member—we would like to have you say to the Commission just what consideration you have given to the effect of substantial reductions in the general class rates on the industrial interests that you already have in Tennessee as well as the South.

A. Well, I understand that the sentiment in my state, and almost unanimously so, supports the position that we have taken for the establishment of uniform class rates, mile for mile, east of the Mississippi River. I have been told and it has been represented to me that we do have within Tennessee—perhaps there are some in some of the other states—those who are fearful that if we secure the relief we seek, thereby the rates may be raised on some commodities that certain interested parties in the South are shipping. All I can say is that considering the general good of the South and of the nation, in my opinion those shippers take a very selfish view of the situation.

Q. Do you know how many of those shippers there are or what proportion of the industrial interests they represent today in Tennessee?

A. I know that the South is a raw material producing area and we ship great quantities of raw materials, while at the same time, our people, although qualified to do so, are [fol. 1490] not able, on account of the freight rate discrimination, to manufacture their raw materials into processed goods in the South.

Q. Do you have in mind, Governor Cooper, any particular commodities?

A. Official territory has, I believe, about 76 per cent of the industries of the nation. As you know, we in the South have a very small portion of tangible assets including tractors and tools with which to manufacture goods.

Q. Well, probably in my mind, as well as, perhaps, in the minds of the Commission is this question: For instance, we know that corn, as an example, may be a factor in the southern agricultural economy that will hold to low income levels unless processed so to speak, and fed to livestock, and then we may reverse the trend and find that there is a higher

level of income and greater prosperity. Those are factors that are relatively simple to deal with, are they not, Governor, because you can control the inclination, but when we come to industrialization, we speak of the high grade commodities——

Chairman Aitchison: Just a minute, please, Mr. Widell.

Mr. Widell: Yes.

Chairman Aitchison: Let the Governor answer one question before you put the next one.

Mr. Norman: He has not asked a question yet. He is just making a statement.

[fol. 1491] Mr. Widell: I was about to ask him a question now.

Chairman Aitchison: I thought you did ask him a question.

Mr. Widell: I was going to ask him this——

Chairman Aitchison: You asked him if those were not relatively simple factors to deal with.

Mr. Widell: You are correct, Mr. Chairman.

The Witness: No. I do not think they are simple factors to deal with.

Mr. Widell: I had perhaps in mind, Governor, the question of the agricultural economy.

By Mr. Widell:

Q. That is a relatively simple faetor, is it not?

A. Well, it involves the paradox which I have already stated, that the South, while it is blessed by Nature with immense wealth, its people are, as a whole, the poorest in the country, and lacking industries of our own, the South has been forced to trade the richness of its soil and the labor of its people for goods manufactured elsewhere.

Q. Can you tell us, Governor, just how we would accomplish this industrialization that is so highly desirable from many viewpoints?

A. The Southern Governors' Conference thinks that one way is to establish uniform class rates, mile for mile, east of the Mississippi River and throughout all the regions.

[fol. 1492] Q. Do you know whether the northern level, as we call it, within Official territory extends as far as the state of Kentucky?

A. Well, I stated that we are not representing the state of Kentucky, although Kentucky is included in Southern Freight Rate territory.

Q. Yes, but you do know, do you not, Governor, that the state of Kentucky today has practically the northern class rates?

A. I understand that they are not as bad off as the rest of us are.

Q. Have they progressed industrially by reason of those class rates?

A. I am not able to speak for the State of Kentucky.

Q. I mean, have you given consideration to the industrial trend in Kentucky by reason of the application of the northern level of rates within that state?

Mr. Norman: Mr. Chairman, I object to that question on the ground it is based on a false premise.

Chairman Aitchison: Read the question, please, Mr. Reporter.

(Question read.)

Mr. Norman: The northern level of rates which he assumes in his question does not apply in that state except to the Ohio River cities and a very small portion in the eastern section.

[fol. 1493] Chairman Aitchison: Whatever it is. I take it, Governor Cooper, you are not going to be misled much about the rates.

The Witness: No. I have not given particular consideration to the trend in economy.

Mr. Widell: One more question.

By Mr. Widell:

Q. In the very beginning of this agitation, Governor, about what has been termed equality of rates or uniformity, there have been serious suggestions made that equality is just as long or broad as it is wide, and that equality should, therefore, run to practically our whole transportation economy. Now, are those your views, sir?

A. I think I have already stated my position, that we are asking for uniformity of class rates, mile for mile, east of the Mississippi River, and we would be glad to see justice done by all the regional territories in the country.

Q. Then to the extent that the application of the rates you have in mind would produce substantial reductions in class rate traffic and revenues, their loss would have to be made up some place, would they not, Governor?

A. I think it is generally in the interest of the country as a whole, not only our part of the country, to have the rate barriers between regions taken down.

Q. That was not, perhaps, quite responsive to the question, sir.

[fol. 1494] A. I answered the question to the best of my ability.

Chairman Aitchison: The question is very argumentative, Mr. Widell. How did you expect him to answer it?

Com. Alldredge: Would you not first have to establish the fact that there was a loss of revenue before you expect the Governor to tell you what to do about it?

Mr. Widell: The questions and the statements of fact in that respect have been so prevalent throughout the hearing that I assumed we were proceeding on a well established basis. I will withdraw the question if it is objectionable. Thank you, sir.

Chairman Aitchison: Are there any other questions of Governor Cooper?

Mr. Hollopeter: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. Hollopeter.

Mr. Hollopeter: The previous interrogator, Governor Cooper, explained to you that he was from your state. Perhaps I should say that I am not. I am from Indiana, by the way, and we are glad to welcome you here, but that is not the reason I came up here.

By Mr. Hollopeter:

Q. You have mentioned, Governor, several times your position that you advocate and seek one level, mile for mile, for class rates east of the Mississippi River. You also mentioned commodity rates on which much traffic moves gen-
[fol. 1495] erally in all territories. I would like to ask you this question: Is your position any different with respect to those commodity rates as to one level in that territory than it is with respect to the class rates?

A. Well, of course, the Southern Governors' Conference was glad to have the decision that was made in the Commodity Rate Case. We asked in that case for lower rates on certain commodities. We got them and were very proud that we got them.

By Chairman Aitchison:

Q. You got all of them, did you not, Governor?

A. Sir?

Q. You got all of them, did you not?

A. No. We did not get as much as we would like to have had, but it was the best we could get and we were reasonably well satisfied.

By Mr. Hollopeter:

Q. Governor Cooper, in the approach to the question of the class rates, do you have any view or do you know of any reason why you feel you might take a different position with respect to one level of commodity rates in this area than you would with respect to one level of class rates?

A. I think you are assuming more than I have said.

Q. Do you know of any reason why there should be any different level of commodity rates if you have the same level [fol. 1496] of class rates?

A. Well, I do not understand your question, now.

Q. Well, perhaps I can make it clear by this statement—of course, the class rates are those that are particularly involved here.

A. Yes.

Q. Moving the higher grade traffic.

A. Yes.

Q. Now, on the raw materials and the lower grade traffic which generally moves on commodity rates, do you know of any reason why your position should be any different with respect to commodity rates than the class rates?

A. Well, our section is a raw material producing section and consequently a lower income region. We are concerned with trying to get rates that will encourage industry in the South to give us a balanced economy, and we think that unless we get that, we will remain what has been termed as the nation's economic problem No. 1, in the relation of colony to Mother Country, having our raw materials drained from us, swapping off the richness of our soil and our labor and making uneconomic disposition of our forests, all because we do not have and cannot get industry in the South.

Q. Then do I understand it might be your position that should you get one level of class rates throughout this territory east of the Mississippi River, you might feel that you [fol. 1497] would want to retain some commodity rates in

your territory that may now be lower than commodity rates elsewhere in the territory?

A. I do not understand—you just stated that it is class rates we are dealing with here. I do not understand that in this case commodity rates are in issue.

Q. They are not, but you mentioned them, and I just wanted to get your view on that question.

A. I merely mentioned that in an endeavor to try to give a straightforward answer. However, I do not understand that commodity rates are in issue here.

Q. They are not, but I am asking you as to your position. If we are going to deal with class rates, that certainly affects a large portion, or a certain portion, of the carriers' revenue.

A. Well, we do not want to deprive the north of our raw materials, of course.

Mr. Hollopeter: Just one more question, if I may.

By Mr. Hollopeter:

Q. Is your position that the rates should be the same for the South as for the North?

A. With reference to the——

Q. I am talking about class rates, now. That is, the same in both directions.

A. Yes. That is our position.

Mr. Hollopeter: Thank you, sir.

[fol. 1498] By Mr. Norman:

Q. In making that answer you are assuming that there are to be uniform rates?

A. Yes.

Q. Throughout the territory?

A. Yes, of course.

Q. And therefore they would apply uniformly in both directions?

A. Throughout the country and in both directions.

Mr. Hollopeter: May I ask one more question, then.

By Mr. Hollopeter:

Q. Assuming that the class rates should not be the same in both directions in the judgment of this Commission as a result of this case, would you then say that you should have

lower rates northbound than the northern shippers have southbound between the same points?

A. We are asking for uniformity of rates. That means that we stand for the proposition of equality as between regions.

Q. Do I understand that "uniformity" means that for the same distance between two points the northern shipper would be entitled to have just as low a rate as you might have?

A. Yes, mile for mile, uniform class rates.

Mr. Hollopeter: That is all, thank you.

Chairman Aitchison: Are there any other questions of Governor Cooper? (No response.) You are excused, sir.

(Witness excused.)

Chairman Aitchison: Call your next witness.

[fol. 1499] Mr. Norman: Mr. Bachman.

Chairman Aitchison: Raise your right hand and be sworn.

J. R. Bachman was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Mr. Bachman, will you state your full name and residence for the record, please?

A. My name is J. R. Bachman. My residence is Atlanta, Georgia.

Q. In what business are you engaged?

A. For the most part my business has been in the milling of grain, having been for forty years in active service engaged in the establishment and operation of a large flour mill in the city of Atlanta.

Q. Mr. Bachman, what connection have you had with transportation affairs?

A. For an equal length of time I have been identified with the activities of the Atlanta Freight Bureau acting for a considerable period of that time as its chairman, most all of the time as a Director and during that period as president of the Atlanta Commercial Exchange.

Q. Do you appear here to testify generally with respect to the issues here involved and not with particular reference to your own industry?

A. I do.

[fol. 1500] Q. Now, Mr. Bachman, you have prepared a statement which has been distributed to counsel?

A. Yes.

Q. I will ask that you proceed to present that statement, Mr. Bachman.

A. The Governor of Georgia has directed me to appear as his representative in this highly important proceeding. Circumstances have denied him the opportunity to appear in person. We feel that in your hands lie the economic destinies of the South and Southwest. We are persuaded that the following conclusions are inescapable:

It is not possible to find the solution of our economic problem through the expansion of agriculture, the maximum development of the livestock movement or the marketing of our raw materials, as such.

The South cannot reasonably hope to maintain even its present precarious economic status, much less obtain levels approximating the National average, unless existing freight rate penalties are removed.

While Southern carriers commonly grant rate concessions to meet competitive requirements, such departures from the prevailing level of authorized maximum rates are designated as competitive rates and as such have not the status of rates prescribed by the Commission. Moreover, Southern carriers are limited by consent of partici-
[fol. 1501] pating carriers in other rate territories. A system of this character developed the exercise of influence possessed by powerful corporations, while doors of such opportunity are not opened to small enterprises which lack similar prestige. In any event such basic practice as rate concessions exposes the industries so involved, to the play of inimical influences and the caprice of carrier management. Capital is far too prudent to invest on any large scale with this Damoclesian threat about its head. Despite the alluring incentive of easily available raw materials in rich variety and generous volume, there can be no conversion within the South to consumer uses so long as rate differentials are maintained for the protection of industries located in competitive territories.

It is our belief that within the existing framework of interterritorial rate relationships, are pernicious preferences and prejudices, the continuance of which will operate progressively to the detriment of all the interests involved.

It is further our considered judgment that general parity rate levels within the entire Atlantic and Gulf areas and including also official territory and the entire South-East and South-West will remove existing abnormalities and be conducive to the healthy expansion of industry under terms of generic control as opposed to sectional domination through unnatural rate manipulation. No candid statement, such as this is meant to be, could fail to acknowledge [fol. 1502] that there are other causes contributory to our economic distress, but it is our contention that freed from artificial restraints industry will flourish in the South, greatly help to restore economic health and create improved internal markets which will inure to the benefit of the national economy and the profit of carriers throughout the nation.

It is also our contention that industrial advantages, in any section of our common country, which are supported through restraints upon potential competition from other sections, most be abandoned forth-with and irrevocably if we are to successfully meet the challenge of the stressful years which lie immediately ahead and the imperative need of the full exercise of our combined energies in the era of reconstruction which is to follow.

Whatever barriers may exist to the free movement of traffic from the North into the South we are willing to have removed, as we feel that there should be no such barriers to the free movement of traffic in either direction—or, for that matter, throughout the country. Whether by design or fortuitous circumstances the existing interterritorial rate relationships have effectively prevented industrial development in the South in many cases, despite the abundant and varied resources of mine and field and forest—despite a rich reservoir of man power capable of a high degree of mechanical and technical skill.

[fol. 1503] The bleak, barren years which closed the past century may be regarded as the aftermath of war. Her capital resources exhausted, credit non-existent, the South of necessity found her meager fortunes in the furrows of her fields. It was a period when her commerce moved within narow limits and freight rates were factors of negligible importance.

With the turn of the century there came an awareness of gross intra and intersectional freight rate inequalities

and concurrently a realization that the South must provide employment upon a broader scale than agriculture alone afforded.

Out of these considerations and evolutions came the genesis of a struggle to obtain through governmental processes the abatement of existing ills—a struggle which was destined to be long and arduous and often tragic with its delays and disappointments. It may be said to have begun with the memorable A. P. Morgan Grain Company case which was followed by the W. S. Duncan Grain Company case in 1910—cases dealing primarily with intrasectional maladjustments, and the Atlanta Freight Bureau cases, 1911, Dockets 4461 and 4637.

Step by step we have made progress and now at last we stand before this honorable tribunal to ask for the complete overthrow of what we regard as an iniquitous, intolerable and wholly indefensible system of preferential freight rates.

In so far as I may speak for Georgia, let me say that [fol. 1504] we are not now seeking to assess the blame for the unwise and unmerited oppressions of the past nor indeed to give voice to the resentments they naturally incite. We prefer to be guided by the old adage that "he is wiser who lights a candle than he who curses the darkness." We cannot too strongly emphasize the importance of this issue to the nation as a whole.

In the presence of not only grave social and economic perils but even a threat to national integrity and security, national solidarity is the prime essential. Assuredly there is no place for a rate-making system which, whether purposely punitive or the result of conditions which no longer exist, operates to protect a strongly entrenched industrial area from legitimate competition. It cannot be successfully maintained that such a system does not exist. The evidences abound. If I may, I would like to be indulged to quote briefly from a terse comment on this situation by the Assistant United States Attorney General, the Honorable Thurman Arnold, which I adopt as my own. These are his words:

"The industrial East has been the Mother Country. The South and West have been the colonies. The colonies have furnished the Mother Country with raw materials. The Mother Country has been exploiting the colonies by selling them the manufactured necessities at artificially

controlled prices. The industrial East has been the prin-
[fol. 1505] cipal source of both capital and organization to develop the South and West. Under such conditions it has been natural enough that the South and West have been developed in the way which would contribute the most to the domination of the industrial East. Wherever it has interfered with Eastern industrial domination, the competitive energy of the South and West has been stifled." Quoting further from this address which was delivered on August 22nd, 1941— . . . . "Big business has treated the West and South primarily as a source of raw materials, not as a place to manufacture and sell finished products at competitive prices.

"This is the age-old principle of colonial empires. It is dictated by the necessity of keeping up dividends in the Mother Country against cheaper local competition in the colonies."

These are not the words of a careless or superficial observer nor of a man dominated by sectional bias.

It is contended in some quarters that if the restraints under which the South has writhed are removed many factories would avail themselves of the more favorable operating factors thus afforded and that accordingly the North and East would be afflicted with violent economic disturbance. This, of course, cannot be recognized as a valid reason for the continuance of a rate arrangement which unnaturally represses the energies of other areas, [fol. 1506] denies to them their normal development and vists upon their people and the carriers which serve them, undue difficulties and hardships. Moreover reason and experience justify the belief that to serve a useful purpose all the links in the chain need to be strong.

There would undoubtedly be some migration of industry to the South and the West under the conditions of a free economy. But there would also be notable expansion of productive activity in lines new and old. There would follow new and enriched consumer markets for the products of Northern and Eastern factories and an increase of intersectional traffic upon the tide of which would ride the adequate sustenance of transportation agencies. These results have already been experienced in the progress thus far made toward the goal we now seek.

Finally, the human equation bulks large in this issue: It has long been known that Southern laborers obtain a high degree of proficiency in technical enterprises. In numerous instances where large national manufacturers have established branch plants in the South, it has been found that native Southern labor ranks high in efficiency and dependability.

Under the thrust of an agricultural upheaval in the South many of our people have been driven from the farms to our towns and cities. With the aid of state and federal governments opportunities have been provided for technical training. As a result we know that men and women [fol. 1507] fresh from the farms and the mountains, without previous technical training of any sort, evince unusual aptitude and resourcefulness and soon become adept in the operation of intricate machinery.

Transcending all considerations related to capital investments, is the right of these people to gainful employment. Such opportunity will develop through the operation of natural forces resident in this area if the restraint of unnatural and unnecessary rate barriers is removed.

Mr. Norman: That is all.

Chairman Aitchison: You may cross-examine. Mr. McCollester.

Cross-examination.

By Mr. McCollester:

Q. Mr. Bachman, is it your view or that of the Governor of Georgia for whom you speak, that if the interterritorial freight rates—class freight rates—on manufactured articles are placed on a mile for mile parity with the rates within the North, that there will be a shift of industry to the South including the state of Georgia?

A. I rather anticipate that there would be some migration, gradually. I do not look for any upheaval, at all.

Q. When you express the desire for industrialization of the South, what you have reference to is that hoped for migration of industry to the southern states, is that correct?

A. I rather say that what I hope for is to remove from our own territory the blight of what we consider a rate

[fol. 1508] hazard in business, a differential that limits the exercise of our reasonable energy.

Mr. McCollester: Now, you are using words, sir, which I suppose have some meaning, but their meaning has escaped me.

By Mr. McCollester:

Q. You do want to have increased industrial development in the South, do you not?

A. Naturally so.

Q. You hope that this equalization of freight rates will achieve that result?

A. Yes, sir.

Q. You conceive that the result will be achieved by a migration of industry from the North to the South?

A. No, sir. I think I could not say that. I do not believe we have reached the point of saturation in our industrial activities in the fields that are open to us.

Q. Then you do not anticipate or do not seek to have a migration of industry from the North?

A. No, sir, I do not. I think if that results as a consequence of equal rates, then it must be accepted as a natural consequence and that any attempt to prevent it would be out of order.

Q. That is not the purpose of seeking an equalization, as you may call it, of freight rates?

A. Not for the purpose of drawing from the North to [fol. 1509] the South any industries there located. We have no desire to impoverish our northern neighbors in any respect.

Q. Where will you get the industries you want to have set up in the South?

A. I would anticipate we would have competitive enterprises located in the South and that capital not now employed would find employment in the development of our own resources and in numerous lines of new endeavor.

Q. Then is it your idea that so far as existing industries are concerned, you desire that they remain in the North any your purpose in bringing this proceeding is to create a condition which will induce new industries to locate in the South rather than the North?

A. No, sir. Our gates are wide open to industries in the North——

Q. Can you answer my question, please, sir?

A. I am trying to do that. Our gates are wide open, as I say, to any northern industry that would find it economically advantageous to operate in the South.

Mr. McCollester: Mr. Reporter, please read the question to the witness.

(Question read.)

A. To answer it again, I wish to say that we hope to create new industries and also receive within our borders any industries located anywhere else who find it advan- [fol. 1510] tageous to operate in the South.

By Mr. McCollester:

Q. Is that the best answer you can give to my rather definite question?

A. Yes.

Chairman Aitchison: You have two questions there.

Mr. McCollester: Yes, but they were both definite, I think.

The Witness: I attempted to make a definite reply. One, I hope it would result in the development——

Chairman Aitchison: I think your answer is sufficient, Mr. Bachman.

The Witness: All right, sir.

By Mr. McCollester:

Q. When those new industries locate in the South, if they do, where do you contemplate that they will market their products?

A. I should hope, of course, that through such energies as we possess, they would go wherever the rate arrangements would allow us to go.

Q. Is not your concern in seeking rate parity here to be able to market those products within the North?

A. We should certainly hope to do so, yes.

Q. That is the market you are looking for, is it not?

A. The densely populated sections would naturally be an attractive market.

Q. The rate structure does not prevent your marketing [fol. 1511] in your own territory at the present time, does it?

A. The rate structure at the present time, I should not say, prevents that. It would prevent operations on any larger than an intraterritorial scale.

Q. Therefore it is the market outside of your territory and notably in Official territory that you are aiming at in this proceeding, is that not true?

A. I do not say that that is exclusively our purpose. We want to enrich our own section and to do it we need a broad expansion of territory in which we can operate. My object, primarily, I think you can discover, or will have discovered, is to provide employment for our people. We are in great distress throughout our whole area., I do not look for any cure for it otherwise than through industrial development. All we are asking for is equality of opportunity here, not for any advantage.

Q. I have been endeavoring to pierce the mystery of the economic situation here with what little knowledge I have on the subject, but the problem which puzzles me and on which I would like an expression of your views in this proceeding is this: You state that the rate situation which you describe in very graphic terms is bad for the economy of the country as a whole and that the rate equality in the case of interterritorial rates will produce an enriched economy. Do I fairly state your view in that respect?

[fol. 1512] A. Yes.

Q. Now, how will the North be enriched if it buys goods from the South instead from Northern manufacturers?

A. I think in turn it will have a broader and richer market in which to sell its products in the South. There may be some adjustments take place as a result of the operation of natural economic loss. That would be inevitable as respects particular lines of industry.

Q. Can you explain——

A. Broadly speaking I believe that if you improve economic conditions in the South you improve the conditions for your own markets as well as ours.

Q. Can you explain to me how the general wealth of the country will be increased if manufactured goods are produced in the South an sold in the North when the buying power of the North is diminished by the removal of the manufacturing process from the North to the South?

A. I do not know that it can be demonstrated, yet I am confident that there is a sound principle there, that with the improvement of the economic health of any stricken

area of the country, you have improved the health of the whole.

Q. Would that be true if another area was thereby injured?

A. I believe it has been demonstrated in the migration of the textile industry to the South. There may have been a shock in certain portions of the North. There was. I be- [fol. 1513] lieve that broadly speaking conditions that prevail today are infinitely better than they were prior to the removal of the textile industries to the South. I believe any losses sustained through the removal of those industries have been more than compensated by the improvement in the buying power of our own area.

Q. Do you think that the buying power of the cities of Utica, Fall River, Providence, Manchester and so forth have been improved by the migration of the textile industry?

A. I was careful to say that in certain areas of the territory there were doubtless instances where there were upsets and upheavals that have not been recovered. However, taking the area as a whole, I think we will have to agree that there is an improved condition generally now as contrasted with the conditions that prevailed in our respective territories prior to that time.

Q. The condition of the South has improved, has it not?

A. Yes, it has.

Mr. McCollester: One more question.

By Mr. McCollester:

Q. It has been stated here and I assume you know that the rates on various raw materials in the South are materially lower, mile for mile, than the rates on the same raw materials within the North. Does your aspiration for over-all rate parity go to the point that you would advocate creating the same economic condition for manufacture [fol. 1514] In the South by raising the rate level in the South to that which obtains in the North?

A. I do not know whether I can answer you, Mr. McCollester. Perhaps I am not apprehending entirely your question, as to what it leads to.

Q. The fact is this, Mr. Bachman, and I think it can be demonstrated: Take pig iron for example. The rates on

pig iron within the South are, mile for mile, materially less than in the North.

A. Yes.

Q. A steel manufacturer in the South using pig iron therefore has a low rate on his inbound raw materials and we will agree a higher rate level on his outbound finished product.

A. Yes.

Q. On the other hand, the manufacturer at Albany, New York, making fire hydrants pays a high rate compared to his Southern competitor on pig iron, but then has a relatively lower rate on the finished product, so in the long run perhaps the two wash out. Would your idea of parity, whether they wash out completely or not, go to the point of advocating putting the raw material rates within the South up upon the level of the raw material rates in Official territory?

A. There is a technical aspect of it that I do not know I am competent to speak on. I would imagine that there is a factor of what the traffic will bear that would inevitably [fol. 1515] enter into this matter in determining railroad revenues and the rates that should prevail on raw materials. Of course, as a Southerner and a Southern businessman, I would not want to see our source of supply rendered unavailable to the Northern manufacturer.

Q. I am talking about source of supply to the Southern manufacturer.

A. Yes. Again there should be parity, I should think, parity of rates.

Q. You would agree then——

A. And equality of opportunity.

Q. You would agree then——

A. Yes.

Q. —that the pig iron rates within the South if they are lower than those in the North should be put up to the Northern level if the manufactured goods rates are to be equalized?

A. I would agree that anything that gave the Southern manufacturer any artificial advantage ought to be removed.

Q. Well, is the substance of your answer to my question, then, "Yes"?

A. If it is true that the existing order of things would discriminate the Northern manufacturer, "Yes" is my answer.

Mr. McCollester: Thank you.

Chairman Aitchison: Is there any further cross-examination?

[fol. 1516] Mr. Grubbs: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. Grubbs.

By Mr. Grubbs:

Q. Mr. Bachman, your concern, I take it from your statement is for the general welfare of the South?

A. That is true, and of our whole country.

Q. That includes, I take it, the railroads of the South?

A. It does, indeed.

Q. You appreciate the vital character of these railroads to the South?

A. Yes. We have not been denied a share in their times of trial and we have benefited in their times of prosperity.

Q. You want the railroads of the South to be as efficient as they can possibly be, do you not?

A. We consider that essential.

Q. You want to meet not only——

Chairman Aitchison: What difference does all that make?

By Mr. Grubbs:

Q. Do you want the railroads of the South to be weakened to any material extent?

A. No, sir. That would be far from our purpose.

Q. By anything the Commission might do in this case?

A. No.

Mr. Grubbs: I would like to ask you just one further question:

By Mr. Grubbs:

Q. You say the aim that you seek is uniformity. You do not say how that uniformity might be brought about, or [fol. 1517] in your judgment should be brought about. Would it be satisfactory to your interests for the Northern level of rates to be raised rather than for the Southern level of rates to be reduced to bring about that uniformity?

A. I should say as to the manner, it lies entirely within the discretion of the Commission and we are glad to leave it there.

Q. You have no wish to express——

A. No.

Q. —except the wish of uniformity?

A. As to how it is to be accomplished, I think it is entirely within their power.

Mr. Grubbs: Thank you. That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: We will take a short recess.

(A short recess was taken.)

Chairman Aitchison: Gentlemen, we will resume. You may call your next witness, Mr. Norman.

Mr. Norman: Mr. Chilewich.

Chairman Aitchison: Raise your right hand and be sworn.

SIMON CHILEWICH was sworn and testified as follows:

Direct examination.

[fol. 1518] By Mr. Norman:

Q. Will you please state your name, address and occupation?

A. My name is Simon Chilewich. I am Secretary and Treasurer of the Andrews Tanning Company, Inc., at Andrews, North Carolina.

Q. Where were you born?

A. I was born in Russia.

Q. How long have you been in this country?

A. Three years.

Q. Will you please relate briefly the history of your business, naming the kinds of and sources of your raw materials?

A. I have had five years of tanning experience in Russia and Poland. The plant at Andrews had not been in operation for several years, until April, this year, at which time my associates and I took it over and spent considerable time and money in rehabilitating it. We then began to draw in hides, as shown on pages 1 and 2 of my tabulation. These hides are purchased F. O. B., shipping point. We pay the freight.

Mr. Norman: If the Chairman please, I offer for identification exhibit No. 77.

Chairman Aitchison: It may be so marked.

(Exhibit No. 77, Witness Chilewich, marked for identification.)

By Mr. Norman:

Q. Will you please describe briefly the process of tanning?

[fol. 1519] A. Hides are soaked in water for two or three days and then put through a deliming process which requires approximately one week for the purpose of removing hair. Then they are cleaned and trimmed and placed into vats of tanning solution, such as chestnut and quebracho extracts. This process requires approximately sixty days, during which time the hides are transferred from vats containing a weaker solution to vats containing a stronger solution every fifteen days. The strength of the solution actually turns the hides into raw leather. If, at the end of a period of approximately sixty days, the hides were taken out of the tanning liquors and dried in primitive condition, a fairly good piece of leather would result from that process. However, due to methods and standards of modern merchandising leather must not only be useful but it must be ornamental as well and to meet these competitive marketing conditions an additional finishing and bleaching process is necessary, which process requires the application of various compounds, rolling, et cetera, all of which requires about thirty days. The foregoing is a brief description of the general process. Certain types of leather are finished to meet specific conditions, such as soles for army shoes or for belting leather. These types are treated to resist wear and such treatment lengthens the process.

Q. To what part of the country do you ship your products?

A. As previously stated, we began reconditioning the [fol. 1520] plant in April and began processing hides in May, which process requires total time of approximately three months. We are just now beginning to make shipments. We have secured orders for shipments to some of the points shown on page 3 of my tabulation and we are seeking and expect to get business to other points shown on the same statement. Such orders are now subject to

priorities. Present negotiations and conditions indicate that most of our business will move in carloads, however, we anticipate some less than carload business.

Q. Where are your competitors located?

A. Almost all of the tanneries in North Carolina and of the South are units of larger organizations or they are controlled by such organizations. We are an independent tannery. Most of the other independent tanneries are located principally in Pennsylvania and Illinois.

Q. Is leather sold F.O.B. plant or on a delivered basis?

A. The usual practice is F.O.B. tannery or warehouse. Most of the tanneries store their leather at the tannery or in nearby warehouses. The Office of Price Administration has promulgated and issued a regulation which permits prices to be quoted F.O.B. tannery and the freight to be paid by the purchaser. We have already experienced considerable difficulty in selling and quoting prices in line with prices quoted from tanneries who are in a position to [fol. 1521] ship at lower freight rates.

Q. Now, will you take your exhibit, please, Mr. Chilewich.

A. Yes.

Q. First I will ask you how this exhibit has been prepared?

A. The exhibit has been prepared at our request by the North Carolina Public Utilities Commission.

Q. Mr. Manning prepared the rate part of it?

A. No. Mr. Nicholson.

Q. Mr. Nicholson?

A. Yes.

Q. The rate part of it?

A. Yes.

Q. Did you furnish him the statement of shipments?

A. Yes. I furnished Mr. Nicholson with all of the bills and bills of lading on these shipments consigned to us as evidenced on sheet No. 1 covering the period from the 21st of May until the 18th of June.

Q. That is the inbound movement of hides?

A. It is only the inbound movement of hides.

Q. Those rates shown there and tonnages are the rates and tonnages actually applied?

A. Actually received and paid for.

Q. Then you show what the basis would be for the same movement in Official territory?

A. Yes.

[fol. 1522] Q. And the difference?

A. The difference, for instance, in the freight rate for 812 miles of freight, carload freight, from New York to Andrews, North Carolina is 61 cents per hundred pounds for green salted hides, whereas for the same 812 miles in Official territory the rate would be 49 cents per hundred pounds, and thereby for the short period and the freight which we have brought in, covering hides only, the difference on dry and green salted hides amounted to about $1,558.82.

Q. The percentage amounted to 25.7?

A. The percentage is about 25.7 per cent.

Q. What is shown on sheet 3?

A. On sheet 3 is a schedule of freight rates, outbound freight rates, and the level from Andrews to various points of destination.

Q. How were those points of destination selected?

A. They include mostly those places to which leather is moving.

Q. Where you would hope to sell?

A. Where we would hope to sell.

Q. Now, just state briefly what that shows. You might take Harrisburg, Pennsylvania.

A. Their freight rate on a minimum carload shipment of leather from Andrews to Harrisburg, Pennsylvania would be 65 cents a pound, or 65 cents per hundred pounds, [fol. 1523] and the distance covered would be 704 miles.

Q. Yes.

A. This is about 8 per cent higher than the freight rate would be for a similar distance up in Official territory.

Q. How would it be on less than carload?

A. On less than carload the difference would be 23 per cent. The freight on less than carload shipments for 704 miles from Andrews would be $1.12—or rather, would be $1.45 whereas in Official territory it would be $1.12.

Q. So that you are going to be at a freight rate disadvantage both on your inbound raw material, hides and on your outbound amnufactured product, leather?

A. That is right.

Mr. Norman: We offer exhibit No. 77 in evidence, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 77? (No response.) It is received.

(Exhibit No. 77, Witness Chilewich, received in evidence.)

By Mr. Norman:

Q. Mr. Chilewich, is there anything you care to add to your statement?

A. No.

Mr. Norman: You may cross-examine.

Chairman Aitchison: Mr. McCollester.

[fol. 1524] Cross-examination.

By Mr. McCollester:

Q. Mr. Chilewich, did you hear the testimony of previous witnesses to the effect that they want a freight rate structure which will induce the manufacture of goods within the territory in which the raw material is produced?

A. Yes.

Q. You get a substantial part of your hides from New York, do you not? New York lighterage?

A. Imported hides from New York. It so happens today in war time most of the steamers discharge at New York, but ordinarily in peace times we could have them discharged at Norfolk or New Orleans, and thereby secure a considerably lower freight rate.

Q. Looking at your exhibit No. 77, what you are complaining about among other things is your rate from New York down, or up, or whatever you want to call it, to Andrews, North Carolina; and then the rate on your dressed hides right back to New York again, is that right?

A. The leather is sold in New York, St. Louis, Chicago and Philadelphia. Those are the four main markets for finished leather, but as far as the raw material is concerned, we can draw our hides from the domestic supply which is mainly located up in Chicago and Illinois, at Detroit, Michigan and at St. Louis, Missouri, or imported hides. [fol. 1525] As I say, today, no matter which hides we buy, we will still pay a higher freight rate than the Official territory.

Q. You do not use Southern hides, then?

A. There are very few Southern hides produced.

Q. If I remember correctly there is pending before the Commission a complaint called the Shayne Brothers Case in which they are seeking reduced rates on hides from the South to the North to enable them to get rid of their surplus of Southern hides. Are you familiar with that?

A. No. I am not familiar with that, but maybe that covers hides of a different quality or description than we are using.

Q. At any rate, your hides come from New York, Detroit and Chicago and go down to Andrews, North Carolina and then your largest market is back in Official territory?

A. That is right.

Q. Is that correct?

A. Yes.

Q. Where do you get your quer*b*ac-o extract? Is that imported?

A. Yes. We were rather short of time and I did not prepare a tabulation covering the tanning materials, but I had some figures up in the office. I could not bring them up to date, but they show exactly, or even a little bit more drastic difference.

Q. You also use chestnut extract in tanning, do you?

A. Yes, we do. A small percentage.

[fol. 1526] That is produced only in the South, is it not?

A. Yes. It is produced in the South, but the freight rate on chestnut extract because it is a liquid commodity and moves in tank cars only, is so small that it hardly amounts to anything.

Q. Was that a factor which influenced you to locate your plant at Andrews, North Carolina?

A. I did not understand the question.

Mr. McCollester: Read the question.

(Question read.)

A. Not from the angle of freight rates, but from the angle of the supply of chestnut wood. We hope eventually to put in an extract plant within our tanning plant. Due to the very serious situation in connection with rubber tires, we thought it would be better if we just located in the area where the chestnut wood would be most handy.

Q. For that reason you chose Andrews, North Carolina?

A. Not for that reason alone, but——

Q. There were other reasons why that was a desirable location, is that right?

A. That is right.

Q. You looked over the country before you located there?

A. No. I did not have an opportunity to look over the country. It so happened that this plant was just the only plant that we knew of, of the right size and belonged to [fol. 1527] people we knew had a good reputation in the business, and we decided that would be better in spite of the disadvantage of being further from the main market or from the source of supply than to locate in another place at which we perhaps would not have available the necessary supplies with which to carry on our business.

Q. You knew your market and you knew your source of supply when you located there?

A. Yes, and therefore I am not complaining that the freight rate itself is higher for 700 miles than it would be for 300 miles.

Mr. McCollester: That is all, thank you.

Chairman Aitchison: Is there any further cross-examination? (No response.) Have you any redirect, Mr. Norman?

Mr. Norman: Yes.

Redirect examination.

By Mr. Norman:

Q. You are complaining that the rates are higher for the same distance for yourself and for your competitor?

A. Yes. I mean, actually we were not aware at the time when we took the plant that we would have to pay any more for 812 miles than anybody else would have to pay, but it turned out that because we are located in the South, we have to pay about 25 per cent more for freight than if we had been located 800 miles from these sources of supply, [fol. 1528] somewhere else in Official territory.

Mr. Norman: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Norman: Mr. LeTourneau.

Chairman Aitchison: Raise your right hand and be sworn.

R. G. LeTourneau was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Will you state your full name, residence and occupation for the record, please, Mr. LeTourneau?

A. My name is R. G. LeTourneau, president of the R. G. LeTourneau Corporation, the LeTourneau Company of Georgia and the LeTourneau Company of Mississippi.

Q. In what business are you engaged?

A. Grading machinery, principally. Of course, now we are making ammunition in all the plants as well.

Q. What kind of machinery?

A. Grading machinery, lifting and hoisting specialty machinery for the United States Engineers such as the bomber cranes that you saw in the papers, to pick up a bomber and things like that.

Q. Where is your original plant located?

[fol. 1529] A. Stockton, California.

Q. Have you a plant there now?

A. It is there, but not doing much.

Q. Why not?

A. Well, that is due, naturally, to the disadvantages of the freight situation.

Q. What did that arise from?

Chairman Aitchison: How are we interested in Stockton, California?

Mr. Norman: We are not, but he has moved from there to Illinois.

By Mr. Norman:

Q. Is that correct, Mr. LeTourneau?

A. Yes, sir.

Q. You are operating your plant in Illinois?

A. Full speed ahead.

Q. Where?

A. Peoria.

Q. Then you established plants where, did you say, in the South?

A. Next in Tugalo, Georgia.

Q. Manufacturing the same commodity?

A. Yes.

Q. Where is the third plant located?

A. Vicksburg, Mississippi.

Q. I wish you would state what caused you to locate the [fol. 1530] first plant you located in the South, in Georgia.

A. Well, it was a vast undeveloped region that I thought should be developed and would be developed, and I would like to have a part in developing it. I saw young men who were willing to work and to learn, and I said, "I will make a place for them".

Q. Did you find those men to be readily adaptable to skilled occupations?

A. Yes.

Q. What have you to say with reference to the freight rate disadvantages you suffer in Georgia?

A. I know very little about the technicalities of freight rates. I think we assumed that if they were not right, they would be made right.

Q. Where do you ship your outbound product from the Georgia plant?

Al. All over the world.

Q. That is true of your other plants, I take it?

A. Yes.

Q. I wish you would state, Mr. LeTourneau, a little more fully the theory on which you built your plant down there in Georgia.

A. Perhaps circumstances had something to do with it, like the man who just testified. I have a friend who said "Come down to Georgia and we will find some cheap land [fol. 1531] for you and help you get started", and because I had a vision—he had a school and I had a factory, and doing a little combining of the things, I said "You find me a large tract of land I can buy real cheap and I might take you up on it". I did not know how quick he was going to do it, but he did. I started out with the idea of a very small plant and it has grown tremendously.

Q. Did you find that that is a good place to locate a plant?

A. I have been well satisfied.

Q. What do you have to say as to the natural advantages of a plant, or the natural advantages for a plant such as that in Southern territory?

A. I believe there are tremendous advantages, natural advantages in the Southern territory. I believe they ought to be developed and I would like to have a part in developing them because if they are there, they are for the good of the nation as well as for the South, and the nation will suffer if we do not develop them. We make the cheapest steel in the world in Birmingham. It is the one place in the world where coal, ore and limestone are found in the same mountain. All you have to do is roll it in the furnaces. Naturally our product is made mostly of steel. So that is one of the big advantages. Then, of course, there is the soil, the growing season, the cheapness of housing conditions on account of mild weather, clothing, the lack of necessity for [fol. 1532] fuel in the winter time, and all those things. I guess we all know about them.

The fact of the matter is, I might say that in moving from Stockton to Peoria, Illinois, we got to the source of raw material. Of course, Chicago makes the steel and we were near enough to get our raw material, but we lost the advantages of the California climate you hear so much about. So I said "I will go South where I can have the raw materials and the climate".

Chairman Aitchison: Mr. Norman, I think we will have to ask to have this witness' testimony brought down to the issues here.

Mr. Norman: Mr. Chairman, I think one of the issues here is the natural advantages that are obtainable for manufacturing industries in the South, if they are given an opportunity to develop them. That is what I undertook to show by this witness. He has been a manufacturer in the North and he has gone down there because of those advantages. It seems to me that that is very pertinent to this case, and to these issues.

Chairman Aitchison: Bring it to a head, now.

Mr. Norman: All right. That is all.

Chairman Aitchison: Is there any cross-examination? (No response.) Apparently not. You may stand aside.

(Witness excused.)

[fol. 1533] Chairman Aitchison: Call your next witness.

Mr. Norman: Mr. Cates.

Chairman Aitchison: Raise your right hand and be sworn.

CHARLES F. CATES was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Mr. Cates, will you please state your name, address and occupation.

A. My name is Charles F. Cates, my address is Faison, North Carolina, at which place I am president of Charles F. Cates and Sons, engaged in the production and marketing of cucumber pickles.

Q. Will you please give a brief history of your business?

A. The business began in a small way on a farm in Alamance County approximately 150 miles west of the present plant location. The original location was not in the best cucumber producing area of the state, and in 1929 we moved to our present location at Faison, North Carolina. During the intervening years our production has progressively increased to the point where we are now processing approximately 175,000 bushels of cucumbers annually. Approximately 175 persons are employed in processing, packing and distributing our product.

Q. What raw materials are used in your process and what is the source of such raw materials?

[fol. 1534] A. Pickling cucumbers is almost entirely the only raw material used; however, to a very limited extent we pickle a few other vegetables, namely, onions, pepper, watermelons which are grown within a radius of about 100 miles of the plant. The plant is located near the center of the cucumber growing area of the state, and 95 per cent of such raw materials are drawn by truck from the growers within a radius of approximately 100 miles.

Q. What processing and packing materials and supplies are required and where are such materials obtained?

A. The principal processing materials and packing supplies, their source, terms of purchase, and method of transportation, are listed on page 2 and 3 of my statement.

Mr. Norman: Mr. Chairman, we offer this document as exhibit No. 78 for identification.

Chairman Aitchison: It may be marked for identification as exhibit 78.

(Exhibit No. 78, Witness Cates, marked for identification.)

By Mr. Norman:

Q. Please describe briefly the process of pickling.

A. In our section cucumbers begin to mature on the vine about the first of June and the picking season continues until about the latter part of July. Our contracts with the growers call for delivery at the receiving station within 12 hours [fol. 1535] of the time they are picked from the vine. Upon arrival at the plant they are placed in large vats or tanks covered with brine and remain there for the curing process which takes from three to six months, according to the size of the cucumber. Approximately forty per cent of our production is then shipped in bulk in barrels or tank cars and sold as brine or salt stock, and the remainder is processed further in various combinations of vinegar, sugar, alum, and spices, and then packed in glass or wood, as sweet, sour, dill, mixed or sliced pickles.

Q. What is your approximate annual total production in pounds and how does it divide as between salt stock and finished goods?

A. The approximate total packed weight of our annual production is about 20,000,000 (twenty million) pounds. It now divides about 40 per cent salt stock and about 60 per cent is finished stock.

Q. How does your outbound shipments divide as between rail and truck shipments?

A. Under existing circumstances it is about equally divided between rail and truck shipments. We own and operate three trucks. We have owned as high as five, but three is what we own presently. These engage in transporting outbound shipments of salt stock and finished goods and bringing in materials and supplies on the return trip. The [fol. 1536] weight of the outbound shipments carried on our own trucks combined with the common motor carrier outbound shipments will approximate about 50 per cent of the total.

Q. In what part of the country are your products sold?

A. Much of our brine stock is marketed in the North. Pages 4 and 5 of my statement shows approximately brine stock railroad shipments for 1941 and the first quarter of 1942. Brine stock is usually converted into finished goods, packed and resold by the purchaser. The entire pickling industry sells brine stock on the basis of F.O.B. shipping point, the purchaser pays the freight.

Q. Where are your finished goods sold and on what basis?

A. Our L.C.L. shipments of finished goods are sold principally in Virginia, West Virginia, North Carolina, South Carolina, Georgia and East Tennessee, within a distance range of about 600 miles from Faison. The shipments are usually forwarded collect and the freight is allowed on the invoice. The general custom in the South is to pay or allow a part or all of the freight charges, the general custom in the North is for the customer to pay the charges, however, the prices in both sections of the country are adjusted to reflect something for the cost of outbound transportation. Our present L.C.L. freight rate adjustment in the South was established on a temporary basis to apply from Faison, North Carolina, and two or three other points to meet truck [fol. 1537] competition. When first established it was limited to short distances but later, from time to time it was extended to greater distances, however, the tariff still carries the truck competitive symbol. This basis is illustrated on pages 6, 7 and 8 of my statement. We feel that we are entitled to a normal basis no higher than that applying within the North. We do not want to be faced continually by the threat of an increase back up to the normal level which is substantially higher than the northern rates. That threat is especially serious at this time when the truck competitive situation is diminishing. We ship numerous carloads into the South some of which move further than the L.C.L. shipments, most of these carloads move at truck competitive commodity rates in connection with a minimum weight of 20,000 pounds, however, that adjustment does not extend to all points, a great part of the destination area of our carload movement has a normal carload rate in connection with a carload minimum weight of 36,000 pounds. We also ship a few carloads to Connecticut and Massachusetts. Under O:D.T. Order No. 18, we will be required to load to capacity of the car. We need a basis of carload rates no higher than the basis enjoyed by our northern competitors who ship into the South in large volume. Even our so-called special carload basis is higher than the northern level. We are more concerned about an equality in the rate level than about the carload minimum weights.

[fol. 1538] Q. Where are your principal competitors located?

A. Pickling plants are usually located in the immediate growing area of cucumbers. Some local competitors are

located within a radius of 100 miles of our plant. One of them produces in volume about equal to ours. The others are smaller. Other competitors are located in Georgia, Alabama, and Mississippi; however, the annual production of pickling cucumbers in North Carolina exceeds the combined annual production of the three states just named. The North Carolina acreage for 1941 was 7,140 acres with a high yield in bushels per acre. Our keenest competition comes from Michigan with an annual production of about 27,000 acres, and Wisconsin about 14,000 acres, and Indiana and Ohio with about 5,000 acres each year.

Q. Are you required to operate under any conditions different from those of your competitors?

A. None whatever from our competitors in the South, but our keenest competitors, those in the North, enjoy a substantial over-all freight rate advantage over us both as to inbound materials and supplies and outbound shipments of brine stock and finished goods.

Q. Now, Mr. Cates, are the prices in both sections of the country adjusted to reflect something for the cost of outbound transportation?

A. Well, prices are fixed so that the cost of transportation [fol. 1539] is taken into consideration.

Q. Have you had prepared an exhibit showing your shipments and the rate adjustment as it affects you?

A. Yes. I had that prepared.

Q. By whom was it prepared.

A. Mr. Nicholson prepared it. We furnished him the bills and bills of lading on the different shipments and he made up the statement and prepared the freight rates.

Q. He inserted the freight rates outbound on similar shipments in Official territory?

A. Yes, sir. He calculated those shipments. We furnished the freight rates that were paid on the shipments from our point.

Q. And the amount of the shipments and so forth?

A. Yes, and the amount of the shipments.

Mr. Norman: I think, Mr. Chairman, the exhibit is easily understandable. I do not believe it is necessary to explain it any further.

Chairman Aitchison: We will receive it subject to check, if there is no objection.

Mr. Norman: I beg your pardon?

Chairman Aitchison: We will receive it subject to check if there is no objection.

Mr. Norman: I will be glad to submit Mr. Nicholson for any examination on it that they may desire.

[fol. 1540] Chairman Aitchison: Does anybody desire to examine Mr. Nicholson? (No response.) Apparently not. Exhibit 78 is received.

(Exhibit No. 78, Witness Cates, received in evidence.)

Mr. Norman: That completes the direct examination of this witness, Mr. Chairman.

Chairman Aitchison: Is there any cross-examination? (No response.) You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness, Mr. Norman.

Mr. Norman: Mr. Fonville.

Chairman Aitchison: Raise your right hand and be sworn.

F. V. Fonville was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Please state your name, address and occupation.

A. My name is F. V. Fonville, my address is Raleigh, North Carolina, at which place I am engaged in the manufacture and distribution of washboards.

Q. Will you please give a brief history of your business, describing the kind and source of raw materials and the process of manufacture?

A. I began the manufacture of washboards at Raleigh in [fol. 1541] 1933, my raw materials consist chiefly of wood and sheet metal, the wood, principally in the form of poplar logs is drawn from nearby saw mills located within a radius of 150 miles of the factory. The sheet metal is received in carloads from Bessemer, Alabama, it is then corrugated in the factory, at present due to priorities, some substitution of glass and wood for steel is necessary. The weight of the glass in lieu of steel in the finished product is approximately thirty-three and one-third per cent greater than steel thereby increasing the freight charge on the outbound product. The manufacturing process in which approximately 25 men are employed is highly mechanized.

Q. In what parts of the country are washboards used?

A. Washboards are used in every state of the Union and in my opinion in proportion to the population of the states. Sales are on a delivered basis.

Q. Who are your competitors and where are they located?

A. My chief competitors are the National Washboard Company whose main base of production is located at Saginaw, Michigan, with a branch factory at Memphis, Tennessee where they utilize the Mississippi River at differential rates in their distribution. The other competitor is the Columbus Washboard Company at Columbus, Ohio. These two companies are my chief competitors.

Q. Please explain just how the washboard industry [fol. 1542] distributes its products.

A. Sales and shipments are made to jobbers or distributors on a delivered basis, that is, freight is allowed to destination, in my case I am forced to allow only the Chicago rate on shipments west of the Mississippi River, consequently I get very little business in that area. Retail sales are made to consumers through chain stores, department and hardware stores.

Q. Are you faced with distribution limitations other than that you have just referred to with respect to the area west of the Mississippi?

A. My distribution is limited only to the extent of the over-all or average freight rate advantage of my competitors, which advantage aside from the L.C.L. rates is accentuated by their ability to ship a part of their production in carloads.

Q. Do you know of any conditions under which your competitors operate that are different from your conditions?

A. As to the assembling and processing of raw materials, I know of no substantial difference. However, as to distribution expense, as previously stated one of my northern competitors has a branch factory at Memphis, Tennessee, on the Mississippi River. Frankly that competitor gives me less trouble than the other one which is located at Columbus, Ohio. I have had the matter of adjusting the outbound rates [fol. 1543] up with the railroad company on several occasions but nothing has been done.

Q. Have you prepared a statement to illustrate the extent of your distribution?

A. Yes, I have selected all of my rail shipments for a single month, the month of September, 1941, and have made

a statement of such shipments. At the time of selecting that month it was representative of both weight and area of distribution. The area of distribution is still approximately the same, but of course there is some variation from month to month. However, in the past few months the tonnage has increased substantially, perhaps with the wave of war prosperity and curtailment of washing machine production, and a great many people are replacing their washing machines and old worn out washboards with new ones.

By Chairman Aitchison:

Q. Is that an entirely correct statement? Are you manufacturing new washing machines now?

A. No, sir.

By Mr. Norman:

Q. Are you manufacturing new washboards, though?

A. Yes.

Chairman Aitchison: Then you should say there at the last that they are replacing their old worn out washboards with new washboards.

The Witness: Yes.

[fol. 1544] By Chairman Aitchison:

Q. That is what I intended to say.

Chairman Aitchison: Proceed.

By Mr. Norman:

Q. You said you had prepared an exhibit showing shipments that you made during a one month period and the freight that you paid thereon?

A. Yes.

Q. Also the basis that would have applied under the Official territory rates?

A. Yes.

Q. And the difference?

A. Yes.

Mr. Norman: If the Chairman please, we ask to have this exhibit marked for identification as exhibit No. 79.

Chairman Aitchison: It may be so marked.

(Exhibit No. 79, Witness Fonville, marked for identification.)

By Mr. Norman:

Q. The total difference on those shipments as shown on page 3 of this exhibit was $45.77?

A. That is a difference on about 25 less-car shipments listed on that page. There was a total freight charge of $158 on those shipments listed on that page, whereas had the rate been equal with the Northern rate, there would have been a freight charge of $112.92, a difference of $45.77 which is approximately 30 per cent.

By Com. Splawn:

[fol. 1545] Q. May I ask if you are unable to sell your washboards, all you can make?

A. No, sir. We cannot sell exactly all we can make.

By Mr. Norman:

Q. Do you desire to sell these washboards in Official territory?

A. Yes, sir.

Q. Have you been able to compete in that territory?

A. Well, sir, we have been forced to compete in that territory solely because we quoted on a delivered price and we have to absorb the difference in freight.

Q. Your business is a small business?

A. Yes, sir.

Q. About what is your annual output?

A. Well, sir, without figuring, our production is about 100 dozen boards a day.

Q. 100 dozen washboards a day?

A. Yes.

Q. Is that all you have?

A. Yes.

Mr. Norman: Mr. Chairman, we offer in evidence exhibit No. 79.

Chairman Aitchison: Without objection, it is received in evidence.

(Exhibit No. 79, Witness Fonville, received in evidence.)

Chairman Aitchison: Is there any cross-examination? [fol. 1546] (No response.) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Whom do we hear next?

Mr. Norman: Mr. Chairman, it was understood, or rather, we had agreed with Mr. Little, who is anxious to get away, that we would step aside at this time and let Mr. Little take the stand, if that is satisfactory to your Honor.

Chairman Aitchison: Very well.

Mr. Kokjer: Be sworn, please, Mr. Little.

Chairman Aitchison: Raise your right hand and be sworn.

J. A. LITTLE was sworn and testified as follows:

Direct examination.

By Mr. Kokjer:

Q. Will you please state your name, residence and occupation?

A. My name is J. A. Little. I live at Lincoln, Nebraska where I am employed by the Nebraska State Railway Commission as Director of Transportation in charge of the railroad and truck rate departments.

Q. Will you state briefly the history of your experience as a traffic expert, Mr. Little?

A. I was employed by the Chamber of Commerce at Superior, Wisconsin, in 1910. In 1911 I entered the service of the North Dakota Board of Railroad Commissioners——

Chairman Aitchison: Pardon me, Mr. Little.

[fol. 1547] The Witness: Yes.

Chairman Aitchison: Is there any question about Mr. Little's qualifications? (No response.) They may be taken as conceded.

The Witness: Thank you, Mr. Chairman. I think I might point out that I was a participant in the Western Classification 51 proceedings, I. & S. 76, mentioned by Mr. Fyfe in his testimony.

By Mr. Kokjer:

Q. Do you have any connection with a committee formed to participate in this particular case, Mr. Little?

A. I have been chairman of an informal committee of ratemen and commerce attorneys of Western Trunk Line State Commissions which have been meeting for several

years past to consider common problems with respect to transportation including the issues in this proceeding.

Q. In cooperation with that committee have you prepared an exhibit to be presented here?

A. I have.

Q. Who prepared that exhibit, Mr. Little? Was it prepared by you or under your supervision?

A. The entire exhibit was prepared under my direction. I sent out uniform instructions to the cooperating Western Trunk Line State Commissions and to four chambers of commerce in the state of Nebraska which engaged in the rate checking necessary to produce the exhibit.

[fol. 1548] Q. Will you describe the exhibit so the parties here may select it from the group they have, please?

A. The first exhibit is entitled "Joint exhibit of Public Utilities Commission of Colorado, Iowa State Commerce Commission, State Corporation Commission of Kansas, Missouri Public Service Commission, Nebraska State Railway Commission, Public Service Commission of North Dakota, South Dakota Public Utilities Commission, Public Service Commission of Wyoming, and also the Chambers of Commerce at Hastings, Grand Island, Lincoln and Omaha, Nebraska."

Q. Do you know that the statements made in this exhibit are true and correct?

A. They are to the best of my knowledge and belief.

Q. Will you proceed, Mr. Little, to explain and comment upon the exhibit.

A. The first page of the exhibit is an index and explanatory notes. The second page represents an examination of less than carload ratings of all the pages of the current Consolidated Classification. The purpose of this page was to test the present degree of uniformity in the less than carload ratings in the Classification proper. I call attention to the setup of the exhibit. You will notice that we have one column covering articles classified first, second and third or multiples of first class. The second item, or the second column covers articles classified rule 26 and fourth [fol. 1549] class, all 55 per cent of first class. I want to explain that in both Official territory or in Western Trunk Line or Western Classification territory quite generally, with the exception perhaps, of the Pacific Northwest, fourth class is column 55, or 55 per cent of first class, which is

the same percentage of first class as rule 26 in the Official Classification.

The next column shows articles classified fourth class which is column 50 in the Official Classification and specifically designated as column 50 for Southern Classification territory and Western fourth class which is column 55 or 55 per cent of first class. In other words, under that heading the articles which are so designated have a uniform classification rating so far as relation to first class goes in the South and Official territory, with Western territory on a higher basis as relates to first class.

The last column is headed "Varied other ratings." The purpose of this division of the check of the items was to more easily group the number of items on each page that were uniform under those headings. To illustrate, on page 3 of the consolidated classification there were 43 items that are classified either first, second, third or multiples of first, uniformly for all Classification territories. There were three items that were uniformly 55 per cent of first class either as rule 26 in Official territory or fourth class in Southern and Western territory. There were two items [fol. 1550] that were 50 per cent of first class as fourth class in the East and column 50 in the South and 55 per cent of first class as fourth class in western territory.

Now, at the bottom of the page there is a summary of the examination of these items. There was a total of 7,990 ratings classified first, second and third or multiples of first class. There was a total of 559 ratings classified rule 26 and fourth class in the Western and Southern territories, all of them being 55 per cent of first class. There was a total of 676 items classified column 50 in Official and Southern territory and column 55, fourth class, in Western territory. There was a total of 768 ratings carrying a variety of dissimilar ratings in the compared territory. The grand total of less than carload ratings involved is 9,993. There was a grand total of 8,549 uniform ratings or a percentage of 85.5 "over-all uniformity." In addition there were 676 items which are uniform as to the South and Official territory with a difference of five points in the scale, Western being higher than the other two territories.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

By Chairman Aitchison:

Q. In view of our off the record discussion, you wish to change the word "items" at the bottom of page 3 of exhibit 80 to "ratings"?

[fol. 1551] A. Yes.

Mr. Bee: Should they not all be items instead of ratings? As you say, there are three ratings but there is only one item.

Chairman Aitchison: Yes.

Mr. Bee: It is rated three times. It is really that many items and not that many ratings.

The Witness: Of course, where the ratings are uniform, that is a single classification designation, in their recent issues of the Consolidated Classification, they do not repeat the rating applied in the three territories as was formerly the case and published in the Classification.

By Chairman Aitchison:

Q. With respect to the column heading, "Page of the Classification Consolidated No. 15, R. C. Fyfe's No. 28", does that refer to the numbers of the Consolidated Classification?

A. That is the page on which the number of items shown opposite each of these lines classified under the headings shown on the exhibit will be found.

Chairman Aitchison: Proceed.

The Witness: With this background of the items embodied in the Classification proper, we undertook to make an examination of the exceptions to the classification in the principal agency exception tariffs in effect in Western Trunk Line, Southwestern, Southern and Official Classi-[fol. 1552] fication territory. That examination encompassed some pretty important and we think typical commodities shown in those exceptions tariffs which are included on pages 4 to 39 of this exhibit.

Take page 4 to illustrate the examination that was made. There you will find the general heading of agricultural implements. We have listed the items in the exceptions tariff on the left hand side, in the left-hand column. The listing of the items for all of the study in the succeeding pages was the listing shown in Agent Kipp's tariff 25-C, his I. C. C. A3411 which is the caption of the third column from

the left-hand side of page 4. It will be noted that that tariff provides column 70 applicable to these agricultural implements in less than carload lots as shown in the item numbers of that tariff which are listed in what is designated as column 2 under that caption down the page opposite each entry covering the various articles which are listed as agricultural implements. In the same way an examination was made of other exceptions tariffs.

I want to make a statement of the application of those tariffs. The exceptions tariff, Agent Kipp's I. C. C. A-3411 shown as the caption of column 2 is published for the Western Trunk Lines as tariff No. 25-C issued by Agent L. E. Kipp and applies between stations in Colorado, Iowa, Kansas, Michigan, Upper Peninsula, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin and Wyoming. [fol. 1553] In the next column to the right, column 3, Agent Peel's I. C. C. 3475, Southwestern Line tariff 1730 applies between stations in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas. In column 4, Agent Jones I. C. C. 3639 is C. F. A. tariff 545-H applying from stations in Western Trunk Line territory to points in Central Freight Association, Trunk Line and New England Freight Association territories.

Chairman Aitchison: Do you show the application somewhere else in your exhibit?

The Witness: I am sorry. I directed that that should be done, but it was not.

Chairman Aitchison: I see.

The Witness: For that reason I am making this explanation.

Exam. Aitchison: Very well.

The Witness: In column 5 is Agent Kipp's tariff 338-H, I. C. C. A-3382 applying between stations in Western Trunk Line territory, Central Freight Association territory, Trunk Line and New England Freight Association territories. Now, generally speaking, it might be pointed out in passing that the tariff just mentioned applies to westbound shipments from Official territory to Western Trunk Line destinations, whereas the tariff referred to in column 4 applies to eastbound shipments from Western Trunk Line territory in the reverse direction to Central Freight Associa-[fol. 1554] tion and Trunk Line destinations.

In column 6 is Agent Jones' tariff I. C. C. 3684, tariff 130-B applying between points in Official Classification ter-

ritory and zone C of Western Trunk Line territory which is immediately adjacent to and for many purposes practically within Official Classification territory. In column 7 is Agent W. S. Curlett's tariff 90-I, I. C. C. A-748 applying from stations in Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Vermont, Virginia and West Virginia to stations in Official Classification territory including Canada.

In Column 8 is exceptions tariff issued by W. S. Mercer, alternate agent, his I. C. C. 530, tariff No. 90, applying to points in Southern Classification territory and Official Classification territory. In column 9 is Agent Kipp's tariff 386-C, I. C. C. A-3353, showing exceptions to the Official, Southern and Western Classification, applying between stations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia and stations in Colorado, Iowa, Kansas, Michigan, Upper Peninsula, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin and Wyoming. In column 10 is Agent Dulaney's I. C. C. 86, tariff No. 21, applying to stations governed by Official and Southern Classification. In column II is Agent Nie-
[fol. 1555] mann's tariff I. C. C. A-495, tariff 150-F applying to Federal Barge Line Service.

Within the past day or two of hearing a query was made by Commissioner Alldredge regarding the exceptions tariffs. I believe that the exceptions tariffs involved in this exhibit are the principal agency issues applying in the territory lying east of the Rocky Mountains involved in this proceeding. The exhibit, of course, does not pretend to cover any exception that may be published in a local issue of a particular railroad. I believe the principal movement of traffic, however, is governed by the agency tariffs of which these are the principal tariffs. I think it covers the bulk of the traffic.

Now, I think it will be helpful to show the situation as to uniformity or lack of uniformity in the exceptions ratings by pointing out this comparatively simple fact: Take, for instance, under the general heading of agricultural implements on page 4, the item of corn huskers not otherwise indexed by name, knocked down, loose or in packages. It is shown under column 1 that in the Official, Southern and Western Classification the ratings would

uniformly be second class. In Agent Kipp's tariff by exception the rating is made column 70 or third class, in item 1390, and the same exception rating is published in each of these other compared tariffs where you find an [fol. 1556] item number in the corresponding column. So the effect is that as you look at this exhibit and these pages where you see item numbers entered across the page, there is uniformity so far as there is corresponding publication of these exceptions in the designated items in the several territories.

By Chairman Aitchison:

Q. Go down to disc harrows, or rather cultivators K. D., loose or packages. That is the first one. Those are rated third class in the three territories, I believe?

A. Disc harrows.

Q. Yes, or cultivators. Either one?

A. Disc harrows are rated——

Q. K. D.?

A. —K. D. third class, set up, loose or in packages, one and a half.

Chairman Aitchison: I did not ask anything about set up.

By Chairman Aitchison:

Q. The same thing applies to cultivators K. D., third class?

A. That is right.

Q. That is 70 per cent, is it not?

A. That is right.

Q. Then the exception is not an exception, is it?

A. No, but the effect of the exceptions tariff is to make the same rating apply to either set up or knocked down shipments. The exceptions as to the set up classification [fol. 1557] are in the line above, Mr. Chairman.

Q. It has changed the rating on set up, but has not changed it on K. D.?

A. That is right.

Q. And the only way it would affect cultivators is K. D.

A. Yes. The exceptions tariff does two things. It may provide an exception to the rating and it may provide a more favorable rating, packaging considered, and it may provide a basis for the mixing of the article in mixed car

load ratings, which is favorable to the shipper. All of those are elements in varying degree in the exceptions tariffs.

Q. Well, with respect, for instance, to cultivators, what difference does it make?

A. The primary difference is in the application of the exceptions to both set up and knocked down shipments. I might say, your Honor, that the exceptions tariff does not show all of this detail, perhaps, that is shown in this left-hand column. We wanted to show you for the purpose of the comparison just what the classification ratings were as to the several provisions with respect to packaging as to which the exception rating was provided without any reference to packaging.

Q. In other words, the exception shows, for example,——

A. Taking disc harrows——

Q. Let's keep to cultivators.

A. All right. Cultivators. It names the commodity [fol. 1558] without specifying the packaging, and we are setting up the proposition that the classification provides two different ratings. We are showing you what those two different classification bases are.

Q. You did not do that with respect to cultivators. You only show one.

A. There is a limitation in the exceptions tariff so it only applies to one. That is the way it is shown.

Q. Then I do not see that there is a bit of point in showing it with respect to cultivators. You have not changed the percentage of first class that applies and you have not indicated there is any restriction on the territory. You have not said that there is any disturbance of the relation with the set up.

A. Well, if you have a reference in the carload items in another part of the tariff to this agricultural implements list as a basis for the application of those ratings, the inclusion of those items with this listing enables the shipper to include all of these named items in the mixed carload, and it may be important in that connection, even though there is no change in so far as the less than carload ratings are concerned.

Q. Well, what has the mixing rule got to do with the rate?

A. If you have—for example, in the classification you might have agricultural implements subject to class A,

[fol. 1559] 24,000 pounds, and in the exceptions tariff you might have a 24,000 pound minimum on these specific agricultural implements listed in the exceptions tariff and a column 40 rating applying to that list of items only, and the items that are not listed in it would be subject to the classification basis.

Q. The mixing rule has been changed all around two or three times, has it not, without disturbance of the ratings themselves?

A. It is not a question of the application of the mixing rule. It is a matter of the designation of what group of articles certain rates will apply to by tariff definition, or by specific tariff application, rather than by rule.

Chairman Aitchison: I will not take any more time on this, but it looks to me like a little bit of padding there.

The Witness: All we did, your Honor, was simply to take all of the items that are in this tariff. If we had omitted that item, we could not have done what we set out to do, namely take all of the items or articles listed in Agent Kipp's tariff 25-C and apply the test we proceeded to apply to this exhibit. Regardless of what the effect may be, the method was uniform, and that is the situation.

Chairman Aitchison: All right.

The Witness: I want to point out that if you look at the various pages, when you see the blank spaces under the various columns, it will be obvious there is a lack of [fols. 1560-1561] uniformity as to the application of a similar rating in the territory covered by the column heading above the blank space. You will find as to some there is a very high degree of uniformity and as to others a very great variation in the uniformity of exceptions ratings. That is quite an obvious and easy at a glance sort of showing that there are very great variations in the application of these tariffs so far as uniformity goes. Now, I think it would be of interest to point out the very great number of ratings on one or two of the groups of commodities.

Chairman Aitchison: Would this be a good place to suspend? It is five o'clock.

The Witness: I will be glad to, any time it suits you.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until tomorrow morning at 9:30 a.m.

(At 5:05 o'clock p.m. September 28, 1942, an adjournment was taken until September 29, 1942, at 9:30 o'clock a.m.)

[fol. 1562] Hotel Claypool, Indianapolis, Indiana,
September 29, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a. m.

Before Division 2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner,

Hon. J. Haden Alldredge, Commissioner, and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by:

Mr. John J. Murphy, South Dakota Public Utilities Commission;

Mr. George McConnaughy, Public Utilities Commission of Ohio; and

Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

APPEARANCES:

As heretofore noted and the following additional:

F. F. Eickhorn, Room 401, State House, Indianapolis, Indiana, appearing for the Public Service Commission of Indiana.

Charles S. Belsterling and Thomas F. Lynch, 71 Broadway, New York City, New York, appearing for Subsidiary mining and manufacturing companies of United States Steel Corporation.

Robert E. Wilson, State Office Building, St. Paul, Minnesota, appearing for the Minnesota Resources Commission.

C. F. Kelsch, % North Dakota Public Service Commission, Bismarck, North Dakota, Appearing for North Dakota Public Service Commission.

[fol. 1563] PROCEEDINGS

Chairman Aitchison: Come to order, please, gentlemen.

J. A. LITTLE resumed.

Direct Examination (Continued).

By Mr. Kokjer:

Q. Mr. Little, do you have some further comment on the document which has been marked exhibit No. 80?

A. Yes.

Q. Please proceed.

A. In one statement yesterday I think I was slightly in error. The general plan of the exhibit was to take the articles listed in Agent Kipp's tariff 25-C which is the Western Trunk Line exceptions tariff and it should be noted that where in other territories under the heading, for example, of machinery and machines, other exceptions tariffs cover additional items, the list was expanded to show the items that were in such exceptions tariffs, but were not covered by the same item in Agent Kipp's tariff; but in every case the items embraced in the exhibit with relation to exceptions to the classification were either the items shown in Mr. Kipp's tariff or the extended list caused by reason of the additional items in other agency tariffs.

I want to point out one group of exceptions ratings that I think would be of interest in the description of hardware on pages 17 to 21 of the exhibit. There it will be found [fol. 1564] that the listing of hardware items includes auto parts, automobile and accessories as listed in a separate list. On pages 22 to 25 are the list of all automobile parts and accessories which, by such reference, take the same exception ratings as the directly listed hardware group. There are a very long list of items of great variety when you include automobile parts and accessories in the category of hardware. I think it might also be pointed out that there are ratings on some of those items provided in the three classsifications as high as double first class and by exception rating becomes column 70.

The general plan of the exhibit is to show, for example, all items of hardware and make a full listing of the heading of application of particular columns for each commodity listing and then, in order to save space in the exhibit, the

heading of application has been cut down to merely designate a column number corresponding with the heading which is shown in the beginning of the commodity description in full. The first 39 pages of the exhibit deal with the check of classification uniformity for less than carload ratings on page 1 and certain important exceptions through page 39.

Pages 40, 41 and 42 are statements showing the present rates not including Ex Parte 148 increases, from points in Official Classification territory and from Southern Classification territory to typical Nebraska destinations. Those [fol. 1565] destinations extend from Omaha on the east edge of the state on a line through the northwestern part of the state. The statement of rates shows in each case the first class published rate which is generally that prescribed originally by the Commission in the Western Trunk the percentage relation of the preesnt rate to the Eastern scale for the short route, for moving the carload traffic, and the percentage relation of the present rate to the Eastern scale rate with through mileage. That is the uniform showing of each of the rate comparisons which are made both on important Official Classification territory origins and from the South to typical Nebraska destinations.

Pages 44 and 45 and 46 of the exhibit show rates from Chicago, Burlington and St. Louis for approximately 25-mile gradations across the intervening territory from those origin points to far western Nebraska destinations, Scotts Bluff, Nebraska, close to the Wyoming line, being the most distant point shown. The purpose of showing these rates was to indicate the sort of a rate gradation and approximate scale with reference to mileage that results from the laminated formula for making such rates as compared with Western Trunk Line zone 1, 2 and 3 rates; and also as compared with the Eastern scale. On each page the short distance is shown, the present first class rate, the Eastern scale first class rate for the short route mileage, Western [fol. 1566] Trunk Line zone 1, 2 and 3 scales and then the percentage relation on the right-hand side of the page of the present rates and the zone 1, 2 and 3 rates for the distance to the Eastern scale.

It is well known, of course, to everyone that in addition to the primary Western Trunk Line zone scales, by the laminated formula, depending upon the location of the

point of origin and the point of destination in Western Trunk Line territory you get a very great variety of possible rate levels, depending upon the extent to which the movement is in one or the other of the several rate-making zones. The last three pages of this exhibit is a showing of some of the variations of such rates under the laminated formula as compared with the basic scale.

Q. Does that complete your comments with respect to exhibit No. 80, Mr. Little?

A. Yes.

Mr. Bee: May I ask you a question for a more complete understanding of exhibit No. 80?

The Witness: Yes.

Mr. Bee: Someone called my attention to this.

By Mr. Bee:

Q. Refer please, to page 40, Mr. Little.

A. Yes.

Q. The rates from Cincinnati, Cleveland and Indianapolis to Beatrice are shown as averaging from 171 to 189 per cent of the Eastern scale which would be much higher than [fol. 1567] the zone 3 rate direct. I just wondered if you could check that and give the Commission some explanation, because it looks like an error on its face.

A. I suspect that may be a typographical error. I will have that checked. I do not have the working papers, but I will have that checked and if there is an error we will be prepared to make a correction at the subsequent hearing.

Chairman Aitchison: Proceed.

By Mr. Kokjer:

Q. Mr. Little, have you prepared another exhibit to be presented here?

A. May I make one more comment on this exhibit?

Q. All right. Go ahead.

A. I think it should be stated that taking the rates shown on page 40 of the exhibit, for example, between Alliance and Buffalo, as an illustration, depending upon the commodity or article involved, you might have a full Western Classification basis applicable to the through movement and you might have a different exception rating under an east-

bound exception tariff than that applicable under a westbound exception tariff. A great variety of illustrations of differences in resulting rates in cents per hundred pounds and charges on particular shipments could be made by examining the rates and charges on items that might be shipped between any of these points depending upon the accident of whether they were rated in the Classification proper or happened to be in an exception rating in one [fol. 1568] direction and no such rating in the other.

I think it should also be stated that there are exceptions to the classification applying within Western Trunk Line territory upon a lower basis east of the Missouri River than west of the Missouri River. Our examination did not permit us to make a full analysis of all the detail of such variation, although I have one or two illustrations which might be of interest in that connection. Take, for example, small arms ammunition. On a shipment from Chicago, or Chicago rate points to Hastings, Nebraska, if the east of the Missouri River rating were applied to the through shipment on a 40,000 pound minimum to Hastings, the carload rate would be 62 cents per hundred pounds; but applying the rating applicable to shipments moving to west of the Missouri River points, the rate is 86 cents per hundred pounds, a difference of 24 cents per hundred pounds with a minimum of 30,000 pounds applicable to the through rate under the Western rating. In the case of binder twine moving between the same points, on the east of the Missouri River basis with a 20,000 pound minimum the rate is 62 cents while on the west of the river basis with a 24,000 pound minimum, it is 67 cents. The same sort of illustrations could be made with respect to less than carload commodities. As an illustration, baking pans of various sorts, classified column 57 up to east of the Missouri River would [fol. 1569] take a rate of $1.09 if the rate were applied through from Chicago to Hastings, while the actual basis applicable to Hastings is $1.15.

There are a great many articles moving from day to day in interstate commerce where the same situation exists on which there are not only lower class rates in cents per hundred pounds east of the Missouri River, but there are lower ratings provided as well. This is noted in part because of the testimony of Witness Jensen who suggested in his exhibit that there was a certain amount of compensation for higher class rate scales by reason of lower exceptions rat-

ings applicable in the territory where the higher rates in cents per hundred pounds were in effect. The reverse of that situation is true in the case of a great many commodities. I think it should be said, in fairness to the carriers, however, that a great many efforts have been made to bring about greater uniformity in the exceptions ratings within Western Trunk Line territory.

As an illustration of that, within the last two or three years, there was an I. & S. case involving furnace parts and heating apparatus where a rate, as I recall, of 60 per cent of first class had for some years been applicable east of the Missouri River and in Official territory and I think, quite extensively in Southern territory; but the ratings in the territory west of the Missouri River on the items embraced in the description were as high as double first class. The [fol. 1570] carriers published column 60 to apply to Nebraska destinations and a considerable part of Kansas, but the ratings, the reduced ratings, were suspended because of the conflict arising in Southern Kansas with the principals which had been set up by the Commission in the Consolidated Southwestern cases. After the case went to the Commission the rate was finally corrected, but I understand the Western Trunk Line carriers have considered many similar cases where they intended to bring about greater uniformity but ran into a conflict with the Southwestern adjustment at Kansas borderline territory.

I think it should also be said that within the past 60 days the carriers in the South and Southwest and in Western Trunk Line territory, after examining the complaints by Nebraska shippers and the Nebraska Commission concerning rates on various classes of cotton goods, decided that they should extend to Nebraska destinations and to other Western Trunk Line territory the same exceptions basis that generally had been made effective between southern and southwestern points between the South, Southwestern and Official territory and between the South and a considerable part of Western Trunk Line territory. As a result of that decision of the Southern, Southwestern and Western Trunk Line carriers, the tariffs which were published to become effective on September 1st brought about 100 per cent [fol. 1571] uniformity in percentage relation to first class of the ratings on cotton goods, including cotton work clothing which is the largest and a very important commodity.

For example, prior to the publication of this tariff item, shippers in Nebraska had paid very much higher charges in proportion to the first class rates between point of origin and destination than were applicable to Southern Missouri River crossings, St. Joseph to Kansas City inclusive, and to a large number of destinations in the state of Kansas. The apparent discrimination was cured by the extension of 100 per cent uniformity in the exception rating. That is all I have on that.

Q. Now, Mr. Little, please take the exhibit which bears the statement on the cover or title page after the title of the case, "History of the demand for uniform classification of freight and relation of class rate investigation to the problems of uniform freight classification".

A. Yes.

Q. By whom was that exhibit prepared?

A. That exhibit was prepared by me.

Q. For whom was it prepared, or on whose behalf?

A. That exhibit was prepared on the direction of, or with the concurrences of the railway and utility commissioners in the South, Southwest and in Western Trunk Line territory.

Q. Are the facts set forth in this exhibit true and correct? [fol. 1572] A. They are, to the best of my knowledge and belief.

Mr. Kokjer: We ask to have this marked for identification as exhibit No. 81, Mr. Chairman.

Chairman Aitchison: It may be so marked.

(Exhibit No. 81, Witness Little, marked for identification.)

By Mr. Kokjer:

Q. Do you have some comment to make on this exhibit, Mr. Little?

A. I think I should say that in 1940 and 1941 as well as for this current year I have been chairman of a committee of National Association of Railroad and Utilities Commissioners appointed to consider uniform freight classification for railway and motor vehicle carriers. The first part of exhibit No. 81 is a portion of the report which was submitted to the National Association in 1940 by the committee of which I was made chairman; and the second half of the exhibit is an excerpt from the report submitted in 1941. I

am not speaking for the National Association, and not as chairman of the committee. I merely point out the source of the material in the exhibit.

Q. Do you wish to go over the exhibit and explain it?

Chairman Aitchison: The exhibit is self-explanatory. It is not necessary to take any time on it.

Witness: I think that is true.

Mr. Kokjer: We offer in evidence exhibits Nos 80 and [fol. 1573] 81, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibits 80 and 81? (No response.) Without objection they are received.

(Exhibits Nos. 80 and 81, Witness Little, received in evidence.)

Mr. Kokjer: You may cross-examine.

Chairman Aitchison: Is there any cross-examination of Mr. Little?

Mr. Smelker: Just two or three questions, Mr. Chairman.

Chairman Aitchison: Mr. Smelker.

Cross-examination.

By Mr. Smelker:

Q. Mr. Little, will you refer to page 8 of your exhibit No. 81.

A. Yes.

Q. I refer you to the sentence at the bottom of the page which reads as follows: "In a recent analysis of classification problems which I believe trustworthy, it appears that 85 per cent of the total freight traffic weighs 20 pounds or more per cubic foot. The same source shows the classification ratings assigned to this important, 20 pounds and over density, group for less than carload or less than truckload quantities." How extensive was this analysis you referred to?

A. It was what I thought was a pretty thorough analysis [fol. 1574] of the traffic moving.

Chairman Aitchison: Who made it?

The Witness: I think it should be stated that the analysis was made by Mr. Orr of the Pet Milk Company. He was

here last week. I do not see him in the room now. He made the study. It was published and has been given pretty wide circulation. I think copies of his analysis was put in the hands of many carrier officers and shippers and others, pretty widespread over the country. I think it is reasonably trustworthy, but of course I did not use that percentage, Mr. Smelker, in making the analysis made later as to the importance of weight in relation to bulk in classification problems.

Mr. Smelker: I have one more question to ask concerning page 8.

By Mr. Smelker:

Q. How is the 85 per cent distributed between truck and rail transportation, could you tell me that?

A. The analysis made by Mr. Orr related to the rail end of it. Because of the fact that adequate statistics as to the truck movement are lacking, it is hard to make any such adequate analysis of the truck situation.

Q. Now, refer to page 9 of your statement.

A. Yes.

Does this table at the top of the page refer to tonnage distribution or ratings?

A. It is the number, that is the per cent of the tonnage of [fol. 1575] articles having a density of 20 pounds or over that were classified as distributed in the table at the top of that page. The point is——

Chairman Aitchison: We cannot understand your answer.

The Witness: The point is that here is a group of articles having a density of 20 pounds per cubic foot or over. Instead of their being in one or two classification groups, they are distributed over the entire list from multiples of first class to fourth class.

Chairman Aitchison: Can you not answer his question? Does this percentage relate to tonnage, number of packages, or number of ratings?

The Witness: Tonnage, as I understand it; tonnage of articles having that density distributed in those classification groups.

By Mr. Smelker:

Q. Who made the study at the top of the page?

A. I made that analysis from the tables in Mr. Orr's study.

Q. Do you know how Mr. Orr obtained that data?

A. My understanding is that he obtained it—I have a copy of the statement from which it was taken. Perhaps I ought to refer to it. I am not quite sure. I should not guess about it.

Q. Will you check up on that later?

A. I have got the data in my room. I could make a [fol. 1576] statement that would clear that up a little later, if I might have the opportunity.

Q. Could you make that data available to Dr. Edwards?

A. Yes.

Q. Now, refer, please, to exhibit 80, Mr. Little?

A. Yes.

Q. How about these exceptions, if the class ratings are made uniform? What program do you advocate in connection with these exceptions?

A. I think there should be a uniform classification and generally speaking the exceptions indicate a classification level which is appropriate to the present position of the rail carriers in the competitive field. I think it is well known that originally classification placed very great emphasis on value as an element in the fixing of the rating assignment. Traffic officers of the rail lines in competition both with the regulated motor vehicle carriers and with private truck lines have found that they could not give as great weight to the insurance element or the element of value as indicating what the traffic would bear as it was possible to do when classification ratings were determined some years ago. I think the exceptions indicate a more realistic approach to the proper classification which can be obtained under competitive conditions, especially as against the possible use of shippers' own transportation facilities where the impor- [fol. 1577] tance of insurance, the factor of value, or other use of the idea of value is minimized.

Q. Do you visualize a uniformity of exceptions throughout all the territory?

A. I see no reason why the classification should not be on a uniform basis, and having been correctly determined, the exceptions should disappear. I think that where a differ-

ence in transportation charges may be justified in some local areas because of special conditions that exist, it should be expressed in the rates rather than in differences in the classification ratings.

Chairman Aitchison: That would not permit, then, uniform scales, would it?

The Witness: That depends upon whether, if you publish commodity rates, they were justified. I think it is true, Mr. Chairman, that every one of the traffic officers who join in making an exception to cover a particular item would hesitate a long while before making a rate adjustment that would cut his charges to anything like the extent that the charges are actually cut by exceptions. For example, take a commodity rated in the classification first class. The minute the exception puts it in column 70, there is a 30 per cent reduction in the charge that would have accrued if the commodity could move at first class. I do not think there is a traffic manager on any of the lines of these carriers who [fol. 1578] would have cut his rate levels 30 per cent as readily as he would agree to cut his classification basis 30 per cent by an exception, believing that there was justification in so doing because of some of these things which have been pointed out such as over emphasis on value and the insurance element.

By Mr. Smelker:

Q. How would you take care of local conditions, then?

A. I think there would be very few instances where you had a reasonable and proper uniform basis of freight classification made with a view to existing conditions, where you would need any exceptions either by rates or by ratings.

Q. From your study, Mr. Little, can you give the Commission any information as to which less than carload ratings move the bulk of less than carload traffic?

A. Undoubtedly third and fourth class would carry the great bulk of the traffic without any question. As an illustration, when I was in the railroad service, anybody would have assigned all drug items to first class without looking at a tariff, but they are all column 70, very largely, as shown in this exhibit No. 80.

Q. Can you broadly indicate the type of class traffic that does not enjoy exceptions and which still moves under the classification, or classification ratings?

A. That would be pretty hard to do. I think there is a [fol. 1579] great variety of exceptions. We have merely tried to give samples, important samples here, or typical samples of the most important commodity exceptions.

Q. Yes.

A. There are quite a good many others. I think the exceptions have ordinarily been made effective to take care of the heavier tonnage movement and competition as to the heavier tonnage movement such as hardware, drugs, groceries, automobile parts and accessories, and items of that kind that are moving in volume every day in competition between the rail carriers and other types of carriers; and I think that where the volume of the movement from day to day is less, the tendency is to not make an exception on those commodities that do not move in volume, and even there it depends upon whether those commodities are handled incidentally by the shipper of drugs and drug sundries or the shipper of hardware and related articles and maybe some things that are not strictly speaking, hardware. They may came into the list because it comes into the field of competition.

Q. What is the test to be applied as to whether certain commodities may enjoy exceptions or not?

A. I think it is entirely based on the question of trying to find the basis that will move the tonnage in competition.

Mr. Smelker: That is all.

Mr. Kokjer: Mr. Chairman, Mr. Weeks calls my atten- [fol. 1580] tion to the fact that the Orr study just referred to by Mr. Little at the bottom of page 8 and in the table at the top of page 9 of exhibit No. 80 was introduced in Ex Parte MC 23. There will be a record of it there.

The Witness: That is right.

Chairman Aitchison: That is asking a little too much for us to go through the record of that proceeding. That is a pretty big record.

The Witness: I will supply a copy of the Orr study to Dr. Edwards later in the day.

Chairman Aitchison: Is there anything further?

The Witness: I would like to make one further statement, since we have gotten into the proposition of the classification principle, Mr. Chairman. When Mr. Fyfe testified in criticism of Mr. Jensen's studies he referred to the prices

of certain commodities as an element in classification; and on page two of his mimeographed statement relating to Mr. Jensen's studies he pointed out that for peppermint oil, the average price in 1914-19 was $3.30 per pound and in July, 1942 was $5.50-$6.00-$6.25 per pound. I went to a chain drug outfit in Indianapolis since that testimony was given and was quoted by the druggist in charge of the store a price for peppermint of $11.00 per pound, and he said he believed that was approximately the wholesale jobber's price, although being a chain store layout, they did not [fol. 1581] patronize jobbers. I merely point that out as indicating a considerable spread in price between what Mr. Fyfe has stated with respect to the price as of a recent period and a spot price here in Indianapolis. If you will look at the value of a commodity and look at place value, the value as between places at which Mr. Fyfe has quoted prices and the price here in Indianapolis, and you approach the question of classification trying to determine what rating will be justified on the basis of value, it is quite obvious that a variety of conclusions could be made on price, having little or no relation to cost of transportation. That is all I have, Mr. Chairman.

Chairman Aitchison: Are there any other questions of Mr. Little? (No response.) You are excused.

(Witness excused.)

Mr. Norman: I suppose, Mr. Chairman, I shall now resume. I will call as my next witness Mr. O. G. Edwards.

Chairman Aitchison: Before you do that, Mr. Norman, we have had presented here the statement of Mr. E. G. Plowman of the Colorado Fuel & Iron Corporation. It has been distributed and I assume you have all received copies. Mr. Plowman is anxious to get away. Would there be any objection to putting in his statement and having his exhibit introduced, in order to let him get away?

Mr. McCollester: May we have just a minute, please, Mr. Chairman?

[fol. 1582] Chairman Aitchison: Yes.

Mr. McCollester: We have no objection to that procedure.

Chairman Aitchison: Then we can proceed directly to cross-examination which I presume will not be long. Be sworn, please, Mr. Plowman.

E. G. PLOWMAN was sworn and testified as follows:

Direct examination.

By Chairman Aitchison:

Q. Your name is E. G. Plowman?

A. Yes.

Q. You are traffic manager of the Colorado Fuel and Iron Corporation?

A. Yes, sir.

Q. Residence, Denver, Colorado?

A. Yes, sir.

Q. You have a statement in this matter, have you, and an exhibit which you have prepared?

A. Yes, sir.

Chairman Aitchison: The exhibit will be marked for identification as No. 82.

(Exhibit No. 82, Witness Plowman, marked for identification.)

Chairman Aitchison: You may present your statement for the record, Mr. Plowman.

[fol. 1583] The Witness: I became traffic manager of the Colorado Fuel and Iron Corporation in 1937, after sixteen years of experience in New England and Colorado as a research economist and as an executive. I am not a registered practitioner, and I so indicated on the form that I filled out at the St. Louis hearing last year. I appear here solely on behalf of my employer, the Colorado Fuel and Iron Corporation, and not as an attorney for others. My testimony is based upon my personal studies and observations in the fields of regional economics and traffic. My Ph. D. is from the University of Chicago.

Although the notion that the railroads have plotted against economical development of the west is absurd, it is true that the Western Trunk Line and Southwestern class rate structure is obsolete and should be improved.

The major growth of the United States, prior to about 1910, was across the continent from east to west. When such interior cities as Cincinnati, St. Louis, Chicago, Kansas City, Dallas, and Denver were established, each in turn was the outpost of civilization, beyond which lay the

western frontier. As pioneer cities, each faced different problems to their east and to their west. There was always the developed east, with established factories and wholesale enterprises. To the west of each city, during its pioneer days, was the western frontier.

[fol. 1584] The railroads of the United States adjusted themselves to this economic habit of east-to-west shipment of manufactured products, and west-to-east shipment of foodstuffs and raw materials. It was natural and proper for our railroads to seek to move the traffic that was available. That was, and still is very largely, eastern manufactures and western raw materials.

It has been my personal privilege to observe that the western railroads are doing everything possible to aid in development of their part of the country. Western railroads have become aggressive on behalf of their local industries. They are effectively aiding the trend towards decentralization of industry, which trend now dominates our American economy.

The present class rate structure in Western Trunk Line and in Southwestern rate territories is obsolete. It was approved by the Interstate Commerce Commission twelve or more years ago. Since then decentralization of industry has changed the economic picture. A new era of water and truck competition with the railroads is now well developed. My purpose in appearing at this hearing is to outline briefly the facts with respect to the hampering and prejudicial effects of the present Western Trunk Line and Southwestern class rates. I shall make constructive suggestions for your consideration.

[fol. 1585] There is no such thing as a railroad plot to hold back or retard the west. There is frequently an inability on the part of the railroads to help their western industries because of the rigid pattern and rules of the class rates. The constructive suggestions I am here presenting will partially unshackle the western railroads.

The prejudicial effect of the present western and southwestern class rate structure can be visualized by examination of market area maps.

Sections A and B of exhibit 82 provide a visual means of observing some of the problems of Colorado business. Section A has to do with wholesaling and manufacturing located in the metropolitan city of Denver. Section B pre-

sents the distribution area of the Colorado Fuel and Iron Corporation around its steel mill at Pueblo, Colorado.

Section A shows the average market area for Denver wholesalers and manufacturers. The boundary line of the Denver Market Area was derived and agreed upon by the Business Research staffs of the Universities of Colorado and Denver. I had the honor to represent the University of Denver in this research undertaking, which checked the actual origin of purchases by thousands of retail stores throughout the Rocky Mountain region.

Section A also contrasts this carefully determined boundary of the Denver Market Area with the mid-way points by [fol. 1586] rail between Denver and its nearest competitors, that is, Minneapolis, Omaha, Kansas City, Dallas and Salt Lake City. It is evident that Denver is not located at the true center of the area. The Denver Market Area does not reach as far east as its geographical location would seem to warrant.

Since Section A represents the average Denver Market Area, it is not possible to measure exactly what is the effect of the present class rate structure; this would require analysis of particular commodities moving at the class rates. It would also require evaluation of the inter-relation of movements of carloads into Denver warehouses and of L.C.L. or truckload shipments outbound.

I have presented Section A because of the striking similarity between the average situation and the characteristics of the distribution area of one concern, the Colorado Fuel and Iron Corporation, shown in Section B. My belief is that the present class rate structure does play some part in determining the eastern boundary of the Denver Market Area. However, I will confine my discussion and proof to one concern, the Colorado Fuel and Iron Corporation.

Section B presents the distribution area for the steel products of the Colorado Fuel and Iron Corporation from its steel mill at Pueblo, Colorado. The controlling factor in location of the eastern boundary of the sales area of the Colorado Fuel and Iron Corporation is freight rates. [fol. 1587] Within the freight rate picture, the arbitrary and prejudicial characteristics of the Western Trunk Line, and the Southwestern class rate structure, have played a large part.

Exhibit B shows that the normal, or peace-time, distribution area of the Colorado Fuel and Iron Corporation ex-

tends from Pueblo, Colorado west to the Pacific Coast and south to the Texas portion of the Gulf Coast. To the north, the west and the south, steel products move maximum distances from Pueblo of from 1,000 to over 1,600 miles to important markets.

To the east of Pueblo, Colorado, the distribution area is more confined. In Western Trunk Line territory, the distribution area does not exceed 700 miles. In Southwestern territory, the eastern boundary is somewhat farther from Pueblo, Colorado.

In Western Trunk Line and Southwestern territory, the carload classification basis for most of the steel products of the Colorado Fuel and Iron Corporation is fifth class, or 37½ per cent of first class. By order of the Interstate Commerce Commision, most steel products move 32½ per cent of first class. In general, the few commodity rates that are in use are also related to the basis of column 32½.

In Western Trunk Line territory west of the Missouri River, practically all interstate carload movement of steel is on the column 32½ basis. In Southwest territory, the [fol. 1588] prescribed basis from eastern steel mills is column 32½. Steel originating at Pueblo, Colorado, moves east into Southwestern territory either at column 32½ or at full fifth class rates. Both these rate bases alternate with blanket commodity rates. These latter rates, at their average distance from Pueblo, are related to the column 32½ basis. In summary, it is correct to say that in those portions of Western Trunk Line and Southwestern territories within the distribution area of the Colorado Fuel and Iron Corporation as shown in Section B, almost all interstate movements of steel products are at the fifth class rate or at closely related rates, chiefly 32½ per cent of first class.

The discussion which follows analyzes the retarding effect of the class rate structure upon the east-bound selling efforts of the Colorado Fuel and Iron Corporation. The fifth class rates are used in the computations, in order to have a uniform basis for calculation.

The retarding and prejudicial effect of the present class rate structure upon eastward selling by the Colorado Fuel and Iron Corporation can be estimated by a sampling process.

The reasons why the present class rate structure penalizes the Colorado Fuel and Iron Corporation is because it causes it to pay relatively more for the same distance than

has to be paid from an eastern origin to the same destina-
[fol. 1589] tion point. The class rate structure is equally responsible whether the steel moves at the full fifth class rate or at 32½ per cent of first class. As a matter of fact, the Colorado Fuel and Iron Corporation pays the full fifth class rate from its mills at Pueblo, Colorado, on most of its shipments to an area in northwestern Oklahoma and Texas that is larger than the six New England states put together.

Section C compares the fifth class rate from Minnequa east-bound and from Chicago or Birmingham westbound to destinations in Nebraska, Kansas, Oklahoma and Texas. This exhibit is a representative sample despite its small number of examples. An increased number of examples should yield approximately the same conclusions.

Section C is in three parts. Page 1 shows the fifth class rates from Pueblo, Colorado, and Chicago, Illinois, to ten destinations in Kansas and Nebraska. Both from Pueblo, eastbound, and from Chicago, westbound, the actual fifth class rate, including the 10 per cent increase of Ex Parte 123, is compared with the Western Trunk Line basic scale fifth class rate. This permits a measure of the amount and per cent of differential in each rate, varying according to the miles traversed through Zones 1, 2 or 3.

To Scott City, Kansas, for example, the eastbound rate from Pueblo works out at 54.4 per cent of the first class rate of the Western Trunk Line basic scale. From Chicago, [fol. 1590] westbound to Scott City the actual fifth class rate is 48.2 per cent of W.T.L. basic first class. Both the eastbound rate from Pueblo and the westbound rate from Chicago contain differential, but there is more in the Pueblo to Scott City rate. As shown in column 5 of the table, the fifth class rate from Pueblo would have to be reduced from the present 48 cents down to 42 cents per hundred pounds, to equalize it with the Chicago to Scott City rate in per cent of differential. The eastbound Pueblo rate carries an extra differential of 13.1 per cent, as shown in column 6, or of 6 cents per hundred pounds, as shown in column 7, compared with the Chicago to Scott City westbound rate.

This added penalty against the eastbound shipper from Colorado, over and above the differential zones, is the reason why the Colorado Fuel and Iron Corporation is unable to distribute its products in peace-time east of the Missouri River.

Almost exactly midway between Pueblo and Chicago is David City, a few miles west of Omaha and Lincoln, Nebraska. To this midway point, the rate from Pueblo is 78 cents per hundred pounds. This is 13 cents per hundred pounds, or 20.0 per cent higher than the westbound rate from Chicago.

At Omaha, Nebraska an important Missouri River point, the penalty against Pueblo is 23.4 per cent or 16 cents per hundred pounds. At Kansas City, Missouri-Kansas, the [fol. 1591] penalty against Pueblo is 25.6 per cent or 17 cents per hundred pounds. I emphasize again that this handicap is solely due to the method of construction of the eastbound class rates.

Chicago is the most important point for steel production, not only in Western Trunk Line territory, but also in the northern part of Southwestern territory. Chicago's base price, plus the carload rate of freight from Chicago, determines the delivered price of steel throughout this area.

Page 2 of Section C shows the fifth class rates from Pueblo, Colorado and Chicago, Illinois, to ten points in Southwestern territory, on and north of the Amarillo-Memphis line of the Chicago, Rock Island and Pacific Railroad. Since Southwestern territory is on a zone 3 basis, the rate from Chicago rises through several zones, just as in Western Trunk Line territory.

At Vinita, Oklahoma, Chicago and Pueblo are equidistant. The penalty against steel originating at Pueblo, as compared to Chicago steel is 18.4 per cent or 13 cents per hundred pounds at this point. This penalty is due solely to the method of construction of the present class rates. At Oklahoma City the penalty against Pueblo steel is 9 cents, at Tulsa is 12 cents and at Muskogee is 11 cents per hundred pounds.

As shown on page 1 of Section C, the average penalty imposed by the class rate structure to ten points in Western [fol. 1592] Trunk Line territory against Pueblo, Colorado, compared with Chicago, Illinois, is 17.2 per cent or 11 cents per hundred pounds. In the northern part of Southwestern territory, shown on page 2 of Exhibit C, the average penalty against Pueblo is 13.0 per cent or 9 cents per hundred pounds, as compared to Chicago.

Throughout most of Southwestern territory south of the Amarillo-Memphis line of the Chicago, Rock Island and Pacific Railroad, Birmingham is nearer than Chicago. In

this area, comprising part of Oklahoma and nearly all of Texas, the price of steel is chiefly determined by the base price at Birmingham, Alabama, plus the carload rail rate of freight from Birmingham to the Southwestern destinations.

Since Southwestern class rates are on a zone 3 basis, there is less of a penalty from Pueblo eastbound or advantage from Birmingham westbound. At a midway point such as Fort Worth and Dallas combined, the penalty against Pueblo is only 3 cents per hundred pounds. This is shown on page 3 of Section C.

The prejudicial effect of the present class rates could be largely eliminated, if the destination level of rate-making rule were in effect.

The higher class rate structure, destination and distance considered, that now applies eastbound from Colorado to points in Western Trunk Line territory, and also to the [fol. 1593] northern part of Southwestern territory, as compared to that from competitive eastern origins is due to the addition of differentials to the class rate scales, from east towards the west. In general it is true that the farther towards the west, the greater the differential above the Official territory class rates. It follows that anyone wishing to ship east on the class rates, from Western Trunk Line origins west of the Missouri River stands on a high hill of zones of differential. This penalty quickly checks the selling efforts of such a concern as the Colorado Fuel and Iron Corporation, eastbound into Western Trunk Line territory and into the northern part of Southwestern territory.

Acceptance by the Interstate Commerce Commission of the so-called "destination level" rule of rate-making would go far towards curing this present penalty situation in the Western Trunk Line and Southwestern class rate structure. Specifically, I recommend that the rule, as proposed by J. Haden Alldredge, Principal Transportation Economist, and now a member of the Interstate Commerce Commission, be approved with proper modifications. As originally suggested by Mr. Alldredge in T. V. A. report to Congress, June 7, 1937, it reads as follows:

"Suggestion No. 1—Establish a definite rule to the effect that interterritorial rates (a) shall be governed by the same freight classification as that which governs the rates in the

[fol. 1594] territory of destination, and (b) that the level of interterritorial rates shall not exceed, distance considered, the level of rates in force and effect in such destination territory." Source: 75th Congress, 1st Session, House Doc. 264, page 65.

It will be noted that the destination level suggestion, as made by Commissioner Alldredge and quoted above, applied only between territories. My request and suggestion is that it also be applied between the several zones of the Western Trunk Line and Southwestern class rates. In this way the differentially higher western rates can be retained on westbound traffic, without penalizing such western concerns as the Colorado Fuel and Iron Corporation, which desires and needs to ship more extensively to eastern destinations.

In Section C, the fifth column of all three pages, I have shown the results upon the actual fifth class rate from Pueblo of adjustment to the destination level basis using Chicago or Birmingham as the origin point. There are, of course, other methods of applying the destination basis rule. I am not appearing here in favor of any one method but rather in favor of the general principle. It is unfair to the Colorado Fuel and Iron Corporation, and it hinders and retards its eastbound selling efforts, to continue the present method of charging a higher class rate eastbound than is charged westbound to the same destination. The [fol. 1595] present method of computation of class rates treats the Pueblo steel mill like a step-child.

A uniform system of classification is a logical next step, if the free movement of commerce eastbound is not to continue to be hampered and retarded by the class rate structure.

The Colorado Fuel and Iron Corporation is a producer of shell body forgings which have been sold direct to the government and shipped on government bills of lading. Recently sales have been made directly to the machine shops producing the finished shells, on a FOB destination basis, and shipped on commercial bills of lading. This change has brought us face to face with the situation outlined in Section D, showing the rates and classification on projectile parts from Pueblo, Colorado and Pittsburgh, Pennsylvania to Omaha, Nebraska and to Chicago, Illinois.

In shipping this necessary war material eastbound, the Colorado Fuel and Iron Corporation is forced by the present

class rate structure to absorb two types of penalty, due solely to its western location. First is the penalty due to the differential zone system of Western Trunk Line class rates. This is so great that Pittsburgh can ship fifty per cent farther than Pueblo. The class 45 rate from Pittsburgh, Pennsylvania, for 922 westbound miles is actually less than the same class 45 rate for 601 eastbound miles from [fol. 1596] Pueblo, Colorado to the same destination, that is, Omaha, Nebraska.

The second penalty levied against the Pueblo shipper of projectile parts is due to the difference in classification, class A, or 45 per cent of first class in the Western Classification and class 40 in the Official Classification. The Colorado shipper must pay class 45 to Chicago, Illinois whereas the Pittsburgh shipper of projectile parts pays only class 40. The inequity of thus penalizing an industry simply because of its western location is apparent, and needs no further comment.

Removal of this prejudicial situation requires more than publication of the destination level rule. It is necessary also for the Interstate Commerce Commission to require a uniform system of classification throughout our country. As the western United States becomes industrialized it will ship new commodities. It is unfair for a western-located industry to have to wait until the problem arises only to discover that variations in classification impose an extra and unexpected handicap. The Commission should require uniformity of classification, so as to eliminate such potential penalties against such concerns as the Colorado Fuel and Iron Corporation.

The Interstate Commerce Commission should prescribe a formula, to prevent excessive additions to class rates as a result of ex parte general rate increases.

[fol. 1597] West of the Missouri River and of Central Texas and Oklahoma is the vast western plain that has been called the region of "magnificent distances". In this area, both because of the great distances and because of the method of zones of differential added to the class rates, the effect of percentage increases in freight rates is unfair and harmful.

Section E contrasts the first class rates from Chicago, Illinois, and Pueblo, Colorado, to the equidistant point of David City, Nebraska. As originally prescribed by the Interstate Commerce Commission the westbound first class

rate from Chicago to David City contained 23 cents per hundred pounds of zone 1 and zone 2 differential. The eastbound first class rate for the same distance, from Pueblo to David City contained 55 cents per hundred pounds of zone 3 and zone 2 differential.

Ex Parte 123 increased the amount of westbound differential 3 cents, but eastbound differental went up 6 cents. Ex Parte 148 brought these figures up to 4 cents and 9 cents. The effect of percentages has increased the penalty against eastbound traffic, in the first class rates, from 32 cents to 37 cents per hundred pounds. This percentage type of penalty is unfair and prejudicial to the eastbound shipper, such as the Colorado Fuel and Iron Corporation.

On December 30, 1941, the Rocky Mountain Association of [fol. 1598] Distributors, A. M. Hays, Secretary and Registered Practitioner, filed with the Interstate Commerce Commission its complaint in the General Rate Increase Ex Parte 148 proceedings. This complaint protested any additional increase in rates as a prejudicial further burden upon the distributors of iron and steel articles in Colorado Common Point territory. One of the grounds for this complaint was the effect of percentages on the class 32½ rate from Chicago to Colorado.

On April 22, 1942, I appeared before the committee of railroad executives appointed by the carriers in accordance with their announcement at the Ex Parte 148 hearing. I pointed out the additional penalty which had been placed upon both the Colorado Fuel and Iron Corporation and the Colorado distributors of iron and steel articles. I requested equalization of the percentage increases, in Western Trunk Line and Southwestern territories, of both the ex parte 123 and ex parte 148 rate orders. My request, as docketed, was subsequently denied by this committee, as well as by the Western Trunk Line and Southwestern traffic committees.

I now request that the Interstate Commerce Commission, in reviewing and correcting the defects of the present Western Trunk Line and Southwestern class rate structure, include in its findings instructions to the carriers to eliminate the additional penalty caused by the effect of percentage increases in freight rate. I leave to the Interstate Com- [fol. 1599] merce Commission and the carriers formulation of the proper method by which to accomplish this necessary equalization.

It is my carefully considered opinion that the Colorado Fuel and Iron Corporation would not be aided by complete abolition of the present class rate differentials.

I believe in evolution, of the Western Trunk Line and Southwestern class rate structure. Revolution is dislocating and damaging in unforeseen directions. I do not favor going at once from the present system to a uniform set of class rates applying from the Rocky Mountains to the Gulf, the Great Lakes and the Atlantic. Such action would cut western railroad revenue too suddenly. Furthermore, the Colorado Fuel and Iron Corporation would suffer losses through forced reduction of selling prices without corresponding gain in sales volume. I favor and request the Interstate Commerce Commission to modify and improve the present Western Trunk Line and Southwestern class rate structure, as the logical next step towards national uniformity.

I have studied with great interest the thoughtful report prepared by C. C. Jensen entitled "Some Suggestions for Improvements in Railroad Class Rates". This is a part of the record in this present proceedings. I will comment upon one point only, namely the method of construction of the differential zones. In Appendix one of the Jensen report, on pages 2 and 3, I find four zones proposed, each [fol. 1600] to contain 10 per cent of differential instead of the present 15 per cent for each zone.

The Jensen report implies that there should continue to be zones 1, 2 and 3 of differential in Western Trunk Line territory and Zone 3 in Southwestern territory. Zone 3, however, is proposed to have only 30 per cent of differential, rather than 45 per cent, as at present.

I wish to point out that substantially the same result could be obtained, by abolishing the present zone 3, and permitting the present zone 2 rates, containing 30 of differential to extend from the Missouri River west to the Rock Mountains and southwest throughout Southwestern territory. This would reduce the complications and penalties of the present class rate structure very substantially. It would be a step towards simplification of class rates, and fairer treatment of the Colorado Fuel and Iron Corporation in its efforts to develop its eastbound business.

I note that the Jensen report implies the continuance of zone 4, with its excessive penalty against western business enterprises, such as the Colorado Fuel & Iron Corporation.

I urge that zone 4 be discontinued, by specific order of the Interstate Commerce Commission. It has been voluntarily abandoned by the railroads, in both Wyoming and Texas. Its continuance in the tariffs encourages those who dislike to see western industry develop to use it as an argument [fol. 1601] or a threat. They can say, in effect, that western industry has been accustomed to "living on straw", and should not be permitted a more attractive menu.

To sum up, the Colorado Fuel and Iron Corporation offers these constructive criticisms of the present Western Trunk Line and Southwestern class rates in a spirit of helpfulness. The present class rate structure has been outgrown. It is my hope that the Interstate Commerce Commission will order suitable modifications and improvements, as the outcome of this proceeding.

By Chairman Aitchison:

Q. The exhibit which has been marked for identification as No. 82 is true and correct, is it?

A. Yes, sir.

Q. The sources of information are shown on the exhibit?

A. Yes, sir.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 82? (No response.) Without objection it is received.

(Exhibit No. 82, Witness Plowman, received in evidence.)

Chairman Aitchison: Is there any cross-examination? (No response.) There seems to be none. You are excused.

The Witness: Thank you very much.

(Witness excused.)

Chairman Aitchison: You may proceed, Mr. Norman.

[fol. 1602] Mr. Norman: Call Mr. O. G. Edwards.

Chairman Aitchison: Raise your right hand and be sworn.

O. G. Edwards was sworn and testified as follows:

Direct Examination.

By Mr. Norman:

Q. Will you state your full name and place of residence for the record, please, Mr. Edwards?

A. O. G. Edwards, Birmingham, Alabama.

Q. With what company are you connected and in what capacity?

A. With the Perfection Mattress & Spring Company as comptroller.

Q. Where is that company located?

A. Birmingham, Alabama.

Q. What are your duties in the position of comptroller?

A. Generally the supervision of disbursements, payrolls and costs.

Q. In what business is the Perfection Mattress & Spring Company engaged?

A. The manufacture and distributing of household furniture.

Q. How long has it been so engaged?

A. Since 1898.

Q. State the approximate annual output of your company.

A. Well over one and a quarter million dollars.

Q. Describe the materials which the company uses in manufacturing its products.

[fol. 1603] A. Cotton and linters; ticking; inner spring units; burlap; sisal; cartons; lumber; wire; angles; bands; hinges; sheets; steel tubing; paints, and so forth.

Q. From what points are those materials obtained?

A. Cotton and linters from Alabama and Ohio. Ticking from New Hampshire, New York, Massachusetts, Georgia and Alabama. Inner spring units from Holland, Michigan, Detroit and Chicago. Burlap from New Orleans and San Francisco. Sisal from St. Louis. Wire from Chicago, Youngstown, Peoria, Atlanta and Birmingham. Cartons, lumber, steel angles and bands from Alabama. Hinges from Chicago. Steel sheets from Ohio and Alabama. Steel tubing from Ohio. Paints and varnishes from Detroit, Chattanooga and Chicago. Bags from St. Louis.

Q. About what part of your raw materials are obtained from points in Official territory?

A. About 34 per cent.

Q. Prior to the time of the present emergency, to what states did you ship your products?

A. Georgia, Florida, Tennessee, North Carolina, South Carolina, Mississippi, Louisiana, Texas and Alabama.

Q. Were you distributing your products in these states in 1941?

A. Yes.

Q. Are the products which you manufacture and sell of such character as will be used by people generally in all [fol. 1604] sections of the United States?

A. Yes.

Q. Are such products of a grade and type as to make them attractive to a large number of buyers or are they confined to a small number of buyers?

A. They are of such character and type that would make them attractive to a large number of buyers in the territory where they had opportunity to buy.

Q. Did you state how long your company had been engaged in its present business of manufacturing and distributing?

A. About 44 years.

Q. Has your company advertised its product in a wide area, and if so, by what methods?

A. Yes. By newspaper, magazine, radio, direct mail, catalogs, folders, calendars, pencils, yardsticks, and so forth.

Q. Has your company distributed its products in any states in Official territory?

A. No.

Q. Why not?

A. Because of the freight rate structure.

Q. Please state where your principal competitors are located.

A. Louisville. Indianapolis. Cincinnati. Bradford, Illinois. Evansville. Muncie, Indiana. Chicago.

Q. You have referred to your freight rate disadvantage.

A. Yes.

[fol. 1605] Q. Have you prepared two exhibits, or had them prepared, to be filed in this proceeding?

A. Yes.

Mr. Norman: If the Chairman please, we ask to have marked for identification the exhibit entitled "Rates on furniture, L.C.L. from Chicago, Illinois", and so forth.

Chairman Aitchison: It may be marked for identification as exhibit No. 83.

(Exhibit No. 83, Witness Edwards, marked for identification.)

By Mr. Norman:

Q. I will ask you to refer to exhibit No. 83 for identificatioon, Mr. Edwards.

A. Yes.

Q. State briefly what that exhibits shows.

A. It shows the present rates on furniture in less than carload quantities from Chicago, Illinois to points in North Carolina as compared with rates based on the Southern territory level. To illustrate, take the first item: To Charlotte, the present rate from Chicago is $1.46, whereas the Southern territory level for the same distance is $1.60 and so on as to the other points shown.

Q. Is that merely illustrative?

A. That is correct.

Q. That is to illustrate the conditions on which you compete with your competitors located in Chicago for business [fol. 1608] in the Carolinas?

A. That is correct.

Chairman Aitchison: This does not show his rates, does it?

Mr. Norman: Yes, it does, in the disadvantage column, as I understand it.

Chairman Aitchison: That is what I would like to know.

By Chairman Aitchison:

Q. Are those the rates from Birmingham or are they rates for equal mileage?

A. Rates for equal mileage. The distance from Birmingham to Charlotte is not exactly the same as from Chicago to Charlotte.

By Mr. Norman:

Q. That shows what your rates would be if they were on the same scale as the rates from Chicago?

A. For the same distance, yes.

Chairman Aitchison: No, it does not. It shows what the rates would be if they were the same distance from Chicago.

Mr. Norman: That is what I said, is it not?

Chairman Aitchison: No.

Mr. Norman: No. It is not the same thing. You are right.

Chairman Aitchison: Proceed.

Mr. Norman: We will ask to have this second exhibit marked for identification as No. 84.

Chairman Aitchison: It may be so marked.

[fol. 1607] (Exhibit No. 84, Witness Edwards, marked for identification.)

By Mr. Norman:

Q. Take your exhibit No. 84, please, Mr. Edwards, and state briefly what it shows.

A. This is a comparison of rates on furniture from Birmingham, Alabama and Chicago to destinations in Official territory and the rates that would apply by applying this Official territory level from Birmingham.

Q. Take St. Louis, for example, and take furniture rated first class or higher.

A. Yes.

Q. What is the rate from Birmingham, Alabama?

A. $1.74.

Q. What would that rate be if you had the Official territory level?

A. $1.19.

Q. Have you been able to compete in that territory under that rate adjustment?

A. No.

Q. You have not shipped there at all?

A. No. We have not shipped there at all.

Mr. Norman: I believe that is all. You may ask him.

Chairman Aitchison: Do you offer your exhibits?

Mr. Norman: I offer in evidence exhibits Nos. 83 and 84, Mr. Chairman.

[fol. 1608] Chairman Aitchison: Is there any objection to the receipt in evidence of exhibits 83 and 84? (No response.) They are received.

(Exhibits Nos. 83 and 84, Witness Edwards, received in evidence.)

Chairman Aitchison: Is there any cross-examination?

Mr. Gwathmey: I have one or two questions.

Chairman Aitchison: Mr. Gwathmey.

Cross-examination.

By Mr. Gwathmey:

Q. Mr. Edwards, I believe you stated that your company does an annual business of about one and a quarter million dollars, is that correct?

A. That is correct.

Q. How would that compare with the volume of your business, say, ten years ago?

A. I do not have those figures with me, Mr. Gwathmey.

Q. Has the volume of your business shown any increase from year to year over a period of years?

A. It has, since the bottom of the depression, yes.

Q. Has that growth been fairly steady and regular?

A. No.

Q. Is your business today twice as great as it was ten years ago?

A. In 1932?

Q. Along during that period.

[fol. 1609] A. Yes. Our business is quite substantially greater.

Q. On what railroad are you located?

A. We are located on several railroads. Birmingham is a railroad center. We have a number of railroads going through Birmingham.

Q. Have you at any time complained to the railroads about your freight rates to points in the north?

A. Directly?

Q. Yes.

A. No.

Q. Have you ever filed a complaint with the Interstate Commerce Commission about them?

A. No.

Q. Were any of your commodities included in the proceeding known as the Southern Governors' case decided by the Commission several years ago?

A. I am not familiar with the details of that.

Q. Your company was not a party to that proceeding, I take it?

A. I think not.

Q. To what territory do you distribute the greater part of your output?

A. Southern territory.

Q. Do you compete in that territory with Southern manufacturers?

A. Yes.

[fol. 1610] Q. Where are they located?

A. Atlanta, Georgia, New Orleans, Louisiana, Nashville, Tennessee and Memphis, Tennessee.

Q. If your class rates should be reduced to the North, would you be willing to have a reduction made in the rates on your inbound raw materials from points in the South?

Mr. Norman: Do you mean an increase?

Mr. Gwathmey: An increase, I mean.

The Witness: May I have the question again?

Chairman Aitchison: Read the question.

(Question read.)

A. If that was necessary.

Mr. Gwathmey: Thank you.

Mr. Norman: Unless there is further cross-examination, that is all.

Chairman Aitchison: Is there any further cross-examination?

Mr. McCollester: I have a few questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Edwards, is it not a fact that all of your products move on exceptions to the classification?

A. I am not a freight rate expert. I am not qualified to answer that question.

Q. Now, you have identified two exhibits, numbers 83 and 84.

A. Yes.

[fol. 1611] Q. Are you prepared to say or not prepared to say whether or not there are general exceptions applying within the South and interterritorially on furniture?

A. I am not familiar with that. These exhibits, I might say, were prepared by Mr. Hart.

Mr. Norman: Mr. Hart is here; if you want to examine him, we will present him.

By Mr. McCollester:

Q. Is your furniture wooden furniture, mostly?

A. Wooden mostly, and combination.

Q. Among your competitors, do you compete with a concern at High Point?

A. I do not recall any outstanding competitor at High Point.

Q. Chattanooga?

A. Yes.

Q. What is your principal furniture line, high class or low class furniture?

A. We carry a fairly complete line of bedding and mattress springs and pads, studio couches, bedroom suites, dining room and kitchen furniture. A general line.

Q. Both what might be called high grade and low grade?

A. I presume so.

Q. Take a bedroom suite: At what margin of profit do you feel that you have to sell?

A. Gross or net, or what type of profit?

[fol. 1612] Q. I will let you figure it.

A. F. O. B. Birmingham or delivered?

Q. Either one.

A. We endeavor to get a margin of profit of from fifteen to twenty per cent.

Q. Can you reduce that for me—that is F. O. B. your plant, is that right?

A. Yes.

Q. Can you reduce that for me to cents per hundred pounds on a bedroom suite, we will say?

A. They vary in weights depending upon the styles, from 250 to 500 pounds and in price from $40, we will say, to about $150.

Q. On a $40 suite, what measure of profit in dollars or in cents per hundred pounds would you require?

Mr. Norman: Mr. Chairman, I want to object to this line of questioning. The witness has not testified about that on direct. That is certainly a business secret of his. I do not think Mr. McCollester has a right to inquire about it.

Chairman Aitchison: It seems a little remote, Mr. McCollester.

Mr. McCollester: I beg your pardon?

Chairman Aitchison: It seems a little remote.

Mr. McCollester: Mr. Chairman, you will recall the witness testified he could not sell in the North because of [fol. 1613] the freight rate level. Now, I want to find out how much difference in freight rate level prevents him from selling. I believe that it can be demonstrated that even if his rates were put on the Northern level, either he could sell or he could not. In other words, the freight rate level does not make any difference to him. I think I am entitled to question him with respect to it or else have his direct statement stricken from the record.

Chairman Aitchison: The question of the reasonableness of the rates does not depend upon the amount of profit a man is able to get out of it.

Mr. McCollester: I thought the reasonableness of the freight rates—or at least, I understand it was the contention of the complainants that it depended upon ability to compete.

Chairman Aitchison: Ability to compete would be dependent upon freight rates. We do not care to go into the question of profits.

Mr. McCollester: Does the Commission not care to go into the question of whether he can absorb differences in freight rates or not?

Chairman Aitchison: We would have to follow that through, then, if we are going to do that, and take up his raw material prices and determine whether they are reasonable or exorbitant, how much the man who supplies [fol. 1614] the raw material can afford to sell it for, what the wages are, the efficiency of labor and all that sort of thing, and we are not going to do that.

Mr. McCollester: Then, Mr. Chairman, I move to strike his direct statement——

Chairman Aitchison: Motion denied.

Mr. McCollester: —to the effect—exception, please.

Chairman Aitchison: An exception is not necessary under the new rules of practice, Mr. McCollester.

Mr. McCollester: I do not know that it is forbidden, Mr. Chairman.

Chairman Aitchison: Is there any further cross-examination of Mr. Edwards? (No response.) Have you any other questions, Mr. Norman?

Mr. Norman: That is all, Mr. Chairman.
Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.
Mr. Norman: Mr. Settles.
Chairman Aitchison: Raise your right hand and be sworn.

R. T. SETTLES was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Will you state your full name, residence and occupation for the record, please, Mr. Settles?
[fol. 1615] A. My name is R. T. Settles, residence, Chattanooga, Tennessee. I am treasurer of the Chattanooga Glass Company.
Q. In what business is that company engaged?
A. The manufacture of glass bottles.
Q. At Chattanooga, Tennessee?
A. That is right.
Q. How long has it been so engaged at that point?
A. Since 1901.
Q. For what purposes are those bottles used?
A. They are used for the—our output goes primarily to the carbonated beverage industry, but we also manufacture some jars for medicines and other miscellaneous items.
Q. What is the approximate capacity of your plant?
A. Our capacity today is approximately 11 carloads of bottles daily.
Q. Eleven carloads a day?
A. Yes.
Q. Do you ordinarily operate at capacity?
A. We have up until recent months operated possibly on the basis of some 8 cars.
Q. Per day?
A. Per day.
Q. Where are your principal markets?
A. Of course we would like to think our best market is in the Southeast. However, we go into Central Freight

[fol. 1616] Association territory to dispose of some of our tonnage.

Q. Where are your principal competitors located?

A. They are located in Central Freight Association territory.

Q. Any points in Illinois?

A. I think that Streator and Charleston would be representative, Streator, Illinois and Charleston, West Virginia. They would be representative producing points.

Q. Do they compete with you in the Southeast as well as in Official territory?

A. Yes, sir.

Q. Have you had prepared an exhibit which shows your rates to Official territory compared with what they would be on the Official territory scale and also the rates from Streator, Illinois to certain destinations?

A. Yes, sir.

Mr. Norman: I will ask that that be marked for identification as exhibit No. 85, Mr. Chairman.

Chairman Aitchison: It may be so marked.

(Exhibit No. 85, Witness Settles, marked for identification.)

By Mr. Norman:

Q. Now, suppose we take Indianapolis as a representative point. State what this exhibit shows as to your rate.

A. It shows the distance from Chattanooga to be 422 miles. It shows our regular classification to be 7th class, [fol. 1617] producing a rate of 57 cents, but by reason of a combination rate, we have a rate of 54 cents. At 27½ per cent of Docket 15879, if that were applicable, we would have a rate of 31 cents.

Q. How is the combination rate constructed?

A. It is based on a commodity rate to Cincinnati gateway and 27½ per cent of first class from there to destination.

Q. There is a commodity rate established by the Southern carriers for you?

A. Yes.

Q. To the Ohio River?

A. Yes.

Q. Mr. Settles, have you ever made any effort to get relief from the situation shown by this exhibit, or get rates on an equality with your competitors?

A. Yes. We have talked to the carriers quite a great deal about it and have made some effort to get rates on the same basis.

Q. Have you met with any success?

A. No, sir. We have, of course, gotten this combination rate which they tell us is the best they can do.

Q. Do you know whether or not the Southern carriers have tried to establish the Official basis for you?

A. It is my understanding that they have tried to get better rates, but that they have been unable to do so because they could not get the cooperation of connecting carriers.

[fol. 1618] Q. Have you anything further you want to add?

A. I do not think so.

Q. You are trying to get that situation remedied here, are you?

A. Yes, sir.

Mr. Norman: You may ask him.

Chairman Aitchison: Do you offer this exhibit?

Mr. Norman: I offer in evidence exhibit No. 85, if the Chairman please.

Chairman Aitchison: Without objection, it is received.

(Exhibit 85, Witness Settles, received in evidence.)

Chairman Aitchison: Is there any cross-examination?

Mr. Gwathmey: Just one or two questions.

Chairman Aitchison: Mr. Gwathmey.

Cross-examination.

By Mr. Gwathmey:

Q. Mr. Settles, does your company do any business in the territory west of the Mississippi River?

A. Yes. We ship into the states east of the Rockies.

Q. Approximately what proportion of your total output goes to that territory?

A. I would not be able to state that. We have to be more or less particular with our customers when we go outside of the South. In other words, we just offer a limited amount of tonnage.

[fol. 1619] Q. Do you distribute generally throughout the territory, the Western territory?

A. We travel it, yes, sir.

Q. Approximately how much of your business have you been doing in the North, in a general way?

A. Well, I could not give you those figures. However, if it is germane, I would be very glad to submit——

Q. No. I am not asking you for figures. Do you do as much as one-third or one-half of your business in the North?

A. If I were to make a rough guess, I would say 25 per cent.

Q. Has your movement to this Western territory increased in recent years?

A. Well, yes. We formerly confined all of our operations to the Southeast.

Q. Now you have extended over into the West, is that it?

A. Yes.

Mr. Gwathmey: That is all.

Mr. Norman: And North?

The Witness: And North.

Chairman Aitchison: Is there any further cross-examination? (No response:) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Norman: Dr. Lane Mitchell.

Chairman Aitchison: Raise your right hand and be sworn.

[fol. 1620] LANE MITCHELL was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Will you state your name, residence, and occupation for the record, please, Dr. Mitchell?

A. My name is Lane Mitchell. I live at Atlanta, Georgia. I am Professor of Ceramics Engineering at the Georgia School of Technology and the head of the department.

Q. How long have you held that position?

A. I have been head of the department for the past year and have been connected with Georgia Tech for six years.

Q. What other experience have you had?

A. For two years I was Assistant State Geologist of the State of Georgia.

Q. What is meant by "ceramics"?

A. By "ceramics" we mean to include all of those fields of endeavor processing non-metallic minerals into products at temperatures above a red heat. All products made by high temperature treatment are either mineral products or ceramic products.

Q. Will you name some such products?

A. All of the clay products. White ware. Crockery. Sanitary ware. Electrical porcelain. All of the glass products. All of the abrasive products that use high temperature in their processing. The refractories industry. Products [fol. 1621] made by coating metals with a vitreous glaze called the enamel industry. All of those are ceramic products.

Q. What are the basic raw materials?

A. The basic raw materials of the clay products industry are clay. In the white ware industry they are kaolin or china clay, ball clay, feldspar and flint. They are the basic raw materials. There may be others, but they are the primary ones.

Q. What deposits of these materials are there in the South?

A. The state of Georgia has the largest known deposit of white clay in the world. This deposit extends across the state of Georgia in a band approximately 30 miles wide and for about 100 miles. It dips over into Alabama on the west and over into South Carolina on the east. Feldspar is produced in North Carolina and Virginia. The larges operations of the feldspar industry are in this territory. The ball clay that is mined in the United States is almost entirely mined in the states of Kentucky and Tennessee. The flint which goes into the ceramic products is mined largely in the South but also in other sections of the country.

Q. What products from those deposits are now produced in the South?

A. If we were to take the white ware industry as an example, there is a white dinnerware plant at Erwin, Tennessee. There is a pottery plant at Atlanta, Georgia. There [fol. 1622] is an electrical porcelain plant at Knoxville, Tennessee. There is a Whitewall tire plant at Macon, Georgia. As far as I know there is no other large producer or average sized producer of white ware in the South.

Q. What products produced from these deposits are not now produced in the South?

A. As far as I know there is no hotel china produced in the South. So far as I know there is no vitreous sanitary ware produced in the South. There is certainly a lack of fulfilling the needs in the dinnerware field in the South, although we have one plant which I spoke of. There is certainly a lack of fulfilling the needs of the South in the matter of electrical porcelain, although there is the one plant I spoke of. There is certainly a lack of fulfilling the needs in the Whitewall tire field in the South, although there is the one plant I spoke of.

Q. Where are these commodities manufactured?

A. These products are at present manufactured in the North, in a band spreading from Ohio across Pennsylvania, a strip of West Virginia and into New Jersey with the principal centers probably located at Trenton, New Jersey and East Liverpool, Ohio.

Q. Are these minerals, if you can call them such—I believe you did call them minerals.

A. Non-metallic minerals.

[fol. 1623] Q. Are these non-metallic minerals shipped in raw state to any great extent out of the South into the North where they are to be manufactured into the finished products?

A. The South is the country's producer of these materials in the main. The clay of Georgia and South Carolina, Florida and North Carolina is shipped into the North. The ball clay of Tennessee and Kentucky is shipped into the North. The feldspar of North Carolina and Virginia is shipped into the North. The flint of the South is shipped some into the North and some consumed in the South.

Q. After being shipped into the North is it then processed or manufactured into these finished articles you have been talking about?

A. Yes, it is.

Q. Do you know why it is, with these extensive deposits of the raw materials, that this industry has not developed in the South?

A. It is something of a mystery to me why we do not have a flourishing ceramics industry in the South with the great advantages of material, but I presume that some of the reasons why the ceramics industry has not grown in the South is because we lack the head start of establishing an industry which the North had. The industry was established in the North many years ago by potters of foreign origin, and the

great centers of the ceramics industry were established [fol. 1624] probably by reason of their common origins and also by reason of markets existing at that time. There was no such service established in the South. Now, the South faces the disadvantage of not having an already going concern in ceramics.

The people of the South are generally impoverished and there is a lack of money to buy the products, although there is no lack of desire to buy them. Therefore a great purchasing power has to be developed in the South. If a plant is established, it has to depend for its early success on the ability to market some in other territories. Therefore, the disadvantage of greater distances to reach existing markets is probably a great concern of people investigating the matter of establishing a plant, and in addition to this there is the added disadvantage of having to ship not only over a great distance, but at a greater rate.

Q. Dr. Mitchell, are those deposits that you have described in the South sufficient to support a large manufacturing industry?

A. The ceramic raw material deposits of the South are sufficient to support the industry of the world for many, many years.

Q. The ceramic industry?

A. That is correct.

Mr. Norman: I believe that is all. You may ask him.

Chairman Aitchison: Is there any cross-examination of [fol. 1625] Dr. Mitchell? (No response.) There seems to be no cross-examination. You are excused.

(Witness excused.)

Mr. Norman: Mr. Chairman, I have introduced, as you know, a number of these shipper witnesses, more to show the actual disadvantage which they personally encounter in this rate adjustment, and of course, could have gotten many more of them, but I think this is sufficient to illustrate the purpose. I have one other witness somewhat along that line who will deal with the manufacturing industry in the South as a whole. He will be present tomorrow. It may be possible that at the adjourned hearing in Columbus I may want to present one or two others; but for the present, at least, we are resting as to those witnesses, and will now call Mr. Saunders, a cost accountant.

Chairman Aitchison: Before you do that, we will take a short recess.

(A short recess was taken.)

[fol. 1626] Chairman Aitchison: Come to order, please, gentlemen. You may call your next witness, Mr. Norman.

Mr. Norman: Be sworn, please, Mr. Saunders.

Chairman Aitchison: Raise your right hand.

HENRY J. SAUNDERS was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Mr. Saunders, will you state your full name, residence and occupation for the record.

A. Henry J. Saunders, Consulting Engineer and accounting and statistical analyst, residence, Washington.

Q. Washington, D. C.?

A. Washington, D. C., yes, sir.

Q. Please outline your educational training and professional experience.

A. My experience covers a period of 43 years beginning in 1899. I am a graduate with two engineering degrees from the University of Wisconsin. From 1899 until 1914 my experience was with the Union Pacific Railroad, The United States Reclamation Service and with several engineering companies such as Ford, Bacon and Davis, and the Arnold Company of Chicago. This latter work was largely on irrigation projects covering heavy construction.

In July, 1914 I entered the service of The Interstate Commerce Commission Bureau of Valuation as office engineer [fol. 1627] at San Francisco handling the valuation of railroads in the so-called Pacific District. I later became supervising engineer and in 1921 when the five districts were consolidated I came to Washington as Assistant Supervising Engineer. I was engaged in that capacity until 1928 when I left the commission to engage in private practice. While with the commission I had charge of the cost section of the Bureau of Valuation, and during the period from about 1922 to 1928 when valuation hearings were held I appeared as the Bureau's witness in over one-hundred cases. I was assigned

to many special cases such as Docket 15100 "Depreciation Charges of Railroad Companies".

Since 1928 when I entered private practice I have been engaged in valuation cases before United States and State courts, the Interstate Commerce Commission and many of the State Commissions and Boards.

In addition to valuation of various utilities, I have appeared for many organizations in the capacity of accounting and statistical analyst where I have presented studies of costs and other statistical matters. Among many of the larger organizations and government agencies who I have represented, are the U. S. War Department, The Tennessee Valley Authority, State Commissions in the states of Virginia, Florida, North and South Carolina and the District of Columbia, various large packers, coal organizations, lum- [fol. 1628] ber organizations, cotton interests and others. I have represented such large cities as New York, Pittsburgh and Miami, Florida. I have represented steamship lines, air lines, motor carriers and others. I was first retained by the Southern Governors in the so-called Southern Governors' case of 1938 and have represented the Southern Governors' Rate Conference in the present case, Docket 28300, since the beginning. I am a member of the American Society of Civil Engineers, the Washington Society of Engineers, and Chairman of the Committee of the Washington Board of Trade known as The Public Utilities and Transportation Committee.

Q. Now, Mr. Saunders, in connection with your preparation to testify in this case, have you examined the exhibits and testimony of Dr. Ford K. Edwards, already presented in this case?

A. I have, yes, sir.

Q. Have you prepared an exhibit for introduction in this case?

A. Yes, sir, I have.

Mr. Norman: If the Chairman please, I ask that that be marked for identification as exhibit No. 86.

Chairman Aitchison: It may be marked for identification as exhibit No. 86.

(Exhibit No. 86, Witness Saunders, marked for identification.)

[fol. 1629] Mr. Norman: Dr. Saunders also has another exhibit, Mr. Chairman, a small two-page exhibit, which we will ask to have marked for identification as exhibit No. 87.

Chairman Aitchison: It may be marked for identification as exhibit No. 87.

(Exhibit No. 87, Witness Saunders, marked for identification.)

By Mr. Norman:

Q. Dr. Saunders, I wish you would please proceed to explain and comment on your exhibit No. 86.

A. As a preliminary explanation, it might be well to say that this exhibit 86 has been prepared prior to the presentation of Dr. Edwards' exhibits Nos. 11, 12 and 13 presented at this hearing. It, therefore, concerns itself with the exhibits offered at St. Louis in July, 1941 and makes no attempt to analyze the present exhibits, 11, 12 and 13.

Each of the larger sheets 11x17" in the exhibit is explained in the exhibit by one or more letter-sized sheets marked with the same number, but just preceding the larger sheet. Little further explanation is needed than that contained in these descriptive sheets. The endeavor has been, however, to set out a comparison with the various territories, and the various groups of costs applicable to these territories. Particular attention has been paid to the Eastern and the Southern comparison.

In every case, the total costs have been used, so that [fol. 1630] if after studying Dr. Edwards' latest exhibit it is desirable to bring in the subject of "out-of-pocket" costs, it will then be necessary to supplement certain of the exhibits.

Q. Do you care to make any further explanation of page 1 of your exhibit?

A. In Dr. Edwards' exhibit No. 3 there is shown the method adopted for separating the aggregate cost into various groups which are later used as the basis for ascertaining the expenses assignable to line haul which are treated as proportional to the length of haul and a second separation to show expenses which are independent of distance or in other words, the terminal expenses at either origin or destination.

Chairman Aitchison: Just a minute, please, Dr. Saunders.

The Witness: Yes.

Chairman Aitchison: The witness is now reading the exhibit, Mr. Norman. It is not necessary if you are going to offer the exhibit.

By Mr. Norman:

Q. It is really part of the exhibit, is it not, Dr. Saunders?

A. Yes. Each sheet is explained.

Q. You do not care to now add anything to that written explanation?

A. I think not. I had a short paragraph that is not contained in the explanation on sheet 1 for exhibit 1. It would be at the end of the third paragraph on the first page. I [fol. 1631] would say it is true that groups 1, 2, 3 and 5 are applicable to both carload and less than carload freight; but the proportion of the account used depends upon the relative cars handled, the car miles and the gross ton miles of less than carload movement considered with the carload movement. The total operating expenses, taxes and rent, but excluding the rate of return and several smaller items, is $272,091,021 in the South. The carload is $237,584,633 which constitutes 87 per cent of the total. In the East it is 93 per cent.

Q. Have you any further explanation other than that contained in the sheets appended to each sheet of the exhibit?

A. I believe not, no, sir.

Q. Not as to any of them?

A. No, sir.

Q. Now, refer, please, Dr. Saunders, to your exhibit No. 87 for identification which shows operating revenues of certain lines serving the state of Florida and other information.

A. Yes.

Q. What have you to say with reference to that exhibit?

A. I have prepared this exhibit and am introducing same on behalf of the Railroad Commission of Florida and other Florida interests. The exhibit has been taken from the monthly and annual reports of these railways, namely, the Atlantic Coast Line, the Seaboard Air Line and Florida East Coast. It covers a period of five years plus seven [fol. 1632] months in the year 1942.

The rate-making value shown is that prepared by the Commission's Bureau of Valuation and used by Dr. Ford K.

Edwards in his exhibit 3 pertaining to the year 1939. Starting with the 1939 date, the adjustments prior and subsequent to 1939 are those recorded on the basis of changes in the investment account for each of the years. These adjustments are comparatively small when considered with the total value. The return on rate-making value is at the rate computed by dividing the net railway operative income by the rate-making value.

It will be noted that the Seaboard Air Line has the highest return, namely 14.03 per cent for the first seven months of 1942. The Florida East Coast has 11.90 per cent and the Atlantic Coast Line 9.91 per cent. In obtaining the return for seven months, the net railway operative income was adjusted so that instead of 7/12 of the year it was increased at the same rate for the additional five months. The figures shown on the exhibit, however, are for the seven months' period. The rapid change from 1941 to the end of July, 1942 is quite noticeable.

Q. What is the purpose of this exhibit?

A. I was requested by the Florida Railroad Commission to prepare for individual roads, these three individual roads, this statement of revenues, expenses, and the other [fol. 1633] items, so that it would not be necessary to take the territorial comparisons which are also shown in detail in Dr. Edwards' exhibits for the purpose of setting up these figures. The Florida Commission wished to have the Coast Line, the Seaboard and the Florida East Coast as separate railroads in an exhibit which could be presented. The 1939 figures will agree with Dr. Edwards' and the other figures are taken from the Commission's annual reports.

Q. You assume, of course, that they expect to use that exhibit in connection with the arbitrary which is now assessed on Florida traffic?

A. Yes. It was thought that this exhibit could be prepared by me and later used by the Florida Commission's representative.

Q. A good deal has been said about the influence of length of haul on these costs. Have you anything to say on that subject?

A. Several of the exhibits contain comparisons and some of the testimony as I recall, refers to the question of costs varying with the length of haul. I took Dr. Edwards' exhibits which show unit costs by railroads and certain of

the groups, groups 1, 2 and 3 particularly, and ascertained the proportion of the cost which varied with the length of haul. Using that as one alternate, and the actual recorded average haul for each railroad separately, I was able to [fol. 1634] make a computation which would show the general trend of the groups of railroads in each district with respect to cost and related to the actual haul within each of those territories. For twenty and thirty ton loads, the variations seem to be about the same using the average haul for each road. In the East, for the haul from 40 to 65 miles, the haul cost decreased at approximately the rate of .513 cents per car mile. From 90 to 200 miles in the East the cost decreased only .024 cents per car mile. For 200 to 280 miles the decrease was .075 cents per car mile. None of these decreases are proportional to the length of haul. In the Southern Region from approximately 80 to 100 miles the decrease was .82 cents per mile. From 100 to 280 miles the cost actually increased .004 cents per mile. Since the terminal costs are constant throughout, the figures I have just given indicate that so far as the average haul cost on each of the roads used in Dr. Edwards' exhibit bears no relation to the decreased length of haul. To illustrate further, we might expect the haul cost between 100 and 200 miles to vary directly with the distance, but on the showing I have just made, the change instead of being one-half the cost per mile is in fact at the rate of .004 cents per mile. If we plotted it on a chart, there would be a very steep decline in the shorter mileages which would gradually approach an almost level cost as we got out to the 280 mile limit, which would be the limit of the roads considered. [fol. 1635] Thus with 12 cents at 100 miles instead of being 6 cents at 200 miles, the average would indicate that 12.4 cents when based on these figures for the average decline or increase in haul cost.

Q. Dr. Saunders' witnesses in this proceeding for the respondents and their figures have generally included the Pocahontas District with the Eastern District.

A. Yes.

Q. Do you consider that proper, and if not, why not?

A. There are several reasons why the inclusion of the Pocahontas Region with the Eastern District gives results that are not comparable. The commodities handled in the Pocahontas Region are made up from 85 per cent to 90

per cent products of mines. In none of the districts is there any figure that approaches that as predominance of any one commodity. That results in the Pocahontas Region in a heavier loading per car, a larger number of cars per train and longer average hauls. There are several other factors which make them entirely dissimilar. Further, the Commission in its monthly and annual reports includes the Pocahontas Region separately, or when combining the statistics into districts, does not place the Pocahontas Region in the Eastern District, but whenever the combination is made, the Pocahontas Region is placed in the Southern District.

Q. Go ahead.

[fol. 1636] A. The group III expenses found by Dr. Edwards which are expenses treated on a gross ton mile basis reduced to .110 per car unit for the Pocahontas Region, which is the lowest of all the regions listed. In the Pocahontas Region these constitute 53.8 per cent of the total expenses. The final effect of including the Pocahontas Region with the Eastern District by this improper comparison is to lower the cost for the Eastern District so that they are below the Southern Region cost.

Q. If you left the Pocahontas District out entirely, what would be the result?

A. If you left the Pocahontas District out entirely of the comparison of the Eastern District with the South, the South immediately is lower than the East on all comparisons that would be made.

Q. Now, have you restated the figures shown on sheet 3 of Kennedy's exhibit No. 18 where he showed the result of a higher cost in the South than in Official Territory by including the Pocahontas Region? Have you restated it, leaving out the Pocahontas Region?

A. I took Mr. Kennedy's exhibit No. 18 as a typical example of the inclusion of the Pocahontas Region with the Eastern District and since he did not present any figures that showed the Pocahontas Region taken out of the Eastern District, I made the comparison on line 19, I believe, of [fol. 1637] sheet 3 of that exhibit. He there showed that the total freight service operating expenses, taxes, joint facility rent and equipment rents, 5¾ per cent return and passenger deficit per revenue ton for the year 1939 in the Southern Region was 12.70; and he also showed in the East, including Pocahontas, for 1939 a figure of 11.96 making the

Eastern District lower than the Southern Region. If we take the Pocahontas Region out of that compilation for the East, we find that the expenses would be 13.16 cents without the Pocahontas Region and the ratio of the East to the South instead of being 1.062 as shown on the last line of sheet 3 of Kennedy's exhibit, would be in fact 96.16, indicating that the Southern Region by that omission of the Pocahontas District was nearly 12 cents lower than the figure obtained by Mr. Kennedy.

If we go further than that, and especially with respect to this investment basis Mr. Kennedy used, and we take the actual valuations as shown in Dr. Edwards' exhibit No. 3 and compare those on the basis of a 4 per cent return which Dr. Edwards has used many times in his exhibits, we find that the East without the Pocahontas Region is 9.34, while the South is 8.56 indicating a ratio of the South to the East of 91.9 per cent, this figure being 96.5 per cent with the investment used by Mr. Kennedy and the 5¾ per cent return.

Q. In other words, in the first calculation in which you arrived at a figure for the Southern costs as compared [fol. 1638] with the Northern costs of 96.5, you used all of Mr. Kennedy's figures, but simply eliminated the Pocahontas District?

A. That is right.

Q. Where you arrived at the figure of relative cost for the South to the North or East of 91.9, you used a different valuation base and also a different rate of return?

A. Yes, sir.

Q. Dr. Saunders, have you been familiar through the years with the various cost studies that have been made particularly by the Bureau of Statistics with reference to relative transportation cost in the various territories?

A. Yes, sir, I am.

Q. You are also familiar with the cost study that has been presented here by Dr. Edwards?

A. Yes, sir.

Q. I will ask you to state what your opinion is as to the relative completeness and value of the cost study here presented.

Mr. McCollester: Before the witness answers that question, I should like to have him specify the other cost studies

other than that of Dr. Edwards which he is asked to compare.

The Witness: I do not have a complete list, but I recall the formula used by Dr. Lorenz in Docket 17,000, the grain part of the case; also the formula prepared by [fol. 1639] Dr. Lorenz and Mr. Elfnore relating to out-of-pocket cost; and there have been several others by the Commission's bureau. Of course, there are a large number that have been put in by witnesses appearing before the Commission. There is the Reymiller formula that was in the Southwestern Divisions Case, I believe, and there have been formulas presented by the late Dr. White—or Mr. White, I do not know which—of the Commission's Bureau of Statistics. There are innumerable formulas. I can just refer to them all as being prior to Dr. Edwards'.

By Mr. Norman:

Q. Answer the question I asked you, now, please, Dr. Saunders.

A. I would say in answer to your question that the present formula presented by Dr. Edwards does not have the advantage of brevity that some of the other formulas have. It is a voluminous formula and requires many minute calculations to obtain a result. Some of these undoubtedly distribute the costs in a much clearer manner and more exact manner than has ever been done before.

By Chairman Aitchison:

Q. You are referring now to exhibits 2, 3 and 4?

A. Yes, and of course the later ones supplementing those that were first introduced in this case, Nos. 11, 12 and 13.

Q. You are taking those into account also?

A. Yes.

[fol. 1640] By Mr. Norman:

Q. In that statement?

A. Yes.

Q. Go ahead

A. In the earlier formulas that came before the Commission there were many difficulties of separation between the line haul expenses and the terminal expenses. A large part of that difficulty, I think, has been clarified by Dr. Edwards' exhibits and formula. The various distribu-

tion of use of different classes of property has been much clarified. All of this, of course, has necessitated a greater amount of work on the part of anyone using those formulas, but that additional work in most cases is warranted by the higher degree of accuracy that is attained. Many of the earlier formulas gave prime consideration to unit costs on a gross ton mile basis as far as haul is concerned. I think in this case the car mile basis with the exception of the group 3 costs is a more accurate way of handling that. The group 3 costs are then, of course, reduced—or expanded to a car mile basis, which brings all the haul costs on a car mile basis.

Chairman Aitchison: Just for the purpose of the record, can you state what the group 3 costs are?

The Witness: The group 3 costs as Dr. Edwards described them are the carload and less than carload running expenses treated on a gross ton mile basis. That is, group 1 and group 2 take care of certain costs on a car mile basis, [fol. 1641] and group 3 takes care of the remaining costs on a gross ton mile basis.

By Mr. Norman:

Q. In other words, group 3 is all of the costs other than those enumerated in groups 1 and 2?

A. Yes, in so far as the line haul is concerned. I believe 5 is in there also.

Q. Had you concluded?

A. On the whole I feel there has been a great deal of progress made in the formula for cost finding by the introduction of these exhibits. No doubt there will be further amendments to the formula as we go along. The only difficulty that practitioners not connected with the Commission would have with it, of course, is that they do not have available the information that the Commission secured by questionnaire, except when the Commission orders it for a particular case like they did the Automobile Case, or this case.

Q. What have you to say about the effect of the amended studies filed by Dr. Edwards at this hearing, which, I believe, are exhibits 11, 12 and 13?

A. That analysis is not complete, as far as I am concerned. I only received the exhibits last Saturday before the hearing opened here. However, it seems to me that

there again there is a step in the right direction because there is not the same uniformity there was under the other method where out-of-pocket costs and the constant costs were grouped.

[fol. 1642] Q. In general what is the effect upon the results shown of the change in method as to certain things used in the second study, or exhibits 11, 12 and 13?

A. According to the checks I have had an opportunity to make as far as the territorial comparison goes, the South, under the newer formulas and newer modifications, is still a low cost region, when we leave the Pocahontas Region out of consideration, compared with the East.

Q. Dr. Edwards' study does leave the Pocahontas Region out does it not?

A. Yes.

Q. It does not include it in either the East or South?

A. No.

Q. For comparative purposes?

A. No, sir.

Q. Have you anything you want to add?

A. Nothing further.

Mr. Norman: If the Chairman please, I offer in evidence exhibits 86 and 87.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibits 86 and 87?

Mr. Gwathmey: May I be heard, sir?

Chairman Aitchison: Before the ruling on the exhibits?

Mr. Gwathmey: Yes.

Chairman Aitchison: Very well.

[fol. 1643] Mr. Gwathmey: Mr. Chairman, on behalf of the Southern railroads I first desire to ask that the same protest and reservation which was made by Mr. J. R. Bell with respect to rate-making values used by Dr. Edwards, be considered as made also in connection with the Saunders' exhibits. May that be understood, sir?

Chairman Aitchison: Mr. Saunders has used the same value figures as Dr. Edwards did with simple adjustments from 1939 down to the dates by the consideration of additions, betterments and net changes in property investment.

By Chairman Aitchison:

Q. Is that right.

A. Yes, sir.

Chairman Aitchison: Now, your reservation was somewhat along the line of nolo contendere?

Mr. Gwathmey: Yes. We merely want to have the same reservation considered in connection with the Saunders' exhibits.

Mr. J. R. Bell: On one of the latter pages of the large exhibit, Mr. Chairman, there are shown data which are not shown in Dr. Edwards' exhibit anywhere. Dr. Edwards set out those figures by territorial rate regions. Witness Saunders has set out here what purports to be value separated as to lines in the Eastern and Southern Districts, individual lines.

Mr. Gwathmey: Mr. Chairman, I was further going to make what Mr. Bell has just pointed out the basis of a [fol. 1644] specific objection to that portion of exhibit No. 86 which appears in the exhibit under the caption of "Exhibit 6" and, I believe, "Exhibit 7", upon the ground that although the exhibit purports to be taken from Dr. Edwards' studies, it includes data, particularly the segregation of values by individual railroads, which I do not understand appear anywhere in Dr. Edwards' studies or elsewhere in this record, and therefore are purely hearsay.

Chairman Aitchison: What do you have to say with respect to that, Mr. Norman?

Mr. Norman: With respect to exhibit 87?

Chairman Aitchison: Both 86 and 87, particularly the latter, in connection with the segregation of value by particular lines.

Mr. Norman: I would like to ask the witness this question:

By Mr. Norman:

Q. What is the basis for those figures?

A. At the July, 1941 hearing, permission was granted to the parties to examine all of Dr. Edwards' underlying working papers. I have before me here photostats for the Southern and Eastern Regions of working papers showing by individual lines the actual valuation of each of those lines.

Chairman Aitchison: You mean, the actual valuation as used by Dr. Edwards?

The Witness: Yes.

[fol. 1645] Chairman Aitchison: Proceed.

The Witness: I have also photostatic copies of the letters from the Bureau of Valuation to Dr. Edwards, of the Bureau of Statistics, setting out their determination of these values which are the values used for the individual lines by Dr. Edwards.

By Mr. Norman:

Q. And used by you in preparing exhibits 86 and 87?
A. That is correct.

Mr. Gwathmey: May I ask, Mr. Chairman, as a matter of information, whether Dr. Edwards' work sheets are considered part of the record in this case?

Chairman Aitchison: No. They are not considered part of the record in this proceeding, but the parties were given an opportunity to use any of the data. I understand Mr. Saunders has gone back to that data and is producing these figures on his own responsibility. I presume Dr. Edwards if he had been interrogated about his own exhibit, would have given the same figures Mr. Saunders has used.

Mr. Gwathmey: Do I understand your Honor overrules the objection?

Chairman Aitchison: Yes. We will overrule the objection.

Mr. Gwathmey: While I am on my feet, Mr. Chairman, may I be permitted to ask whether the Southern accountants [fol. 1646] will be afforded an opportunity to examine Mr. Saunders' work sheets?

Chairman Aitchison: We will hear from counsel on that.

Mr. Norman: Let me ask the witness one question.

By Mr. Norman:

Q. Do you have your work sheets here, Dr. Saunders?
A. I have not all the work sheets here, no. A great many of these exhibits are simply compilations transferred directly from Dr. Edwards' to my exhibits. The other sheets which require computations I do not have with me, but they could be made available.
Q. You could make them available in Washington?
A. I will make them available to anyone who is interested in and wants to see them.

Mr. Norman: We will do that.

Mr. Gwathmey: Between now and the time of the Columbus hearing?

Mr. Norman: As soon as you get back to Washington.

Mr. Gwathmey: Thank you.

Chairman Aitchison: Is there any cross-examination of Mr. Saunders?

Mr. McCollester: I have just a couple of questions for information.

Chairman Aitchison: Mr. McCollester.

Cross-examination.

[fol. 1647] By Mr. McCollester:

Q. With respect to statement No. 5 of your exhibit No. 86, in arriving at the segregation you have made there of commodities shown and per cents of total, is my impression correct that what you have done both for the United States and for each district is to start with the commodity representing the greatest percentage of the total, and then take the commodities in the order which their respective percentage bears to the total until you have arrived at enough of them to make up 75 per cent?

A. Yes. I just went through the commodity statistics selecting the highest one first and then gradually went through them and selected those that were next in line until I arrived at the percentage shown on the basis of the cars ordered. The order of tons originated is not quite the same. I took the same commodities and got a greater percentage in the case of the United States.

Q. But for example, if we look at the figures you have shown there, or rather the commodities you have shown there for the Southern Region, there are enough other commodities that you have not shown to make up 25 per cent of the total?

A. Yes.

Q. That is correct, is it not?

A. Yes. It goes down below one per cent, of course, on each of those.

Mr. McCollester: Yes.

[fol. 1648] By Mr. McCollester:

Q. You would have gotten 75 per cent of the total by listing those other commodities instead of all of the commodities beginning with about products of mines and running down to the bottom of your column there, is that right?

A. I am sorry, but I did not understand your question.

Q. You could have gotten a total of 75 per cent of all traffic by a different combination of commodities than that which you have shown here?

A. Well, not on my basis. I was taking the most important commodity. That is the only combination the most important ones could get.

Q. In connection with coal on the Southern Region sheet of statement No. 5, does your figure of bituminous coal which you have attributed to the Southern Region include all bituminous coal tonnage originated by the lines grouped in the Southern Region?

A. Yes.

Q. In other words, it includes coal that originated at Illinois mines on the Illinois Central, Louisville & Nashville and Southern?

A. There might be that duplication, yes.

Q. You have not made any separation, in other words, for those lines who have mines in the territory north of the Ohio River?

A. No. For those few roads—there are about four or five [fol. 1649] of them, I think, that serve one or more territories—the total of originated cars and tons is the total for the road itself.

Chairman Aitchison: May I ask at this point:

By Chairman Aitchison:

Q. Do the figures for the Western District include Mountain Pacific?

A. Yes, sir. The district was taken as a whole.

By Mr. McCollester:

Q. Now, in connection with the Eastern District I note that you show no tonnage of ore originated. Is that for the reason that the heavy movement of ore handled by Official Classification Lines is ore that originates up in the Lake Superior region and therefore is not credited as ore originating to lines in the Eastern District?

A. Yes. I presume that is mostly in the column received from connections, instead of the originating column.

Q. You know there is a very large movement of ore on the Official lines, do you not?

A. Yes.

Mr. McCollester: That is all.

By Chairman Aitchison:

Q. There is quite a little of it that originates, is there not as ore brought in from abroad?

A. According to statistics it is less than one per cent of the total commodities handled.

Chairman Aitchison: Had you finished, Mr. McCollester?

Mr. McCollester: Yes.

[fol. 1650] Chairman Aitchison: Is there any further cross-examination?

Mr. A. L. Reed: I have a few questions, Mr. Chairman.

Chairman Aitchison: Mr. A. L. Reed.

By Mr. A. L. Reed:

Q. Mr. Saunders, in connection with exhibit 86 in the written explanation of page 1, there appears a percentage of 3 per cent with respect to less than carload costs, and in the written explanation on page 2 of exhibit 86 at the bottom there appears a percentage of 7.2 also relating to less than carload expenses. I am not able to understand from your testimony the difference between those two percentages. Would you mind explaining them for me?

A. Well, exhibit 1, designated "exhibit 1"——

Mr. Norman: Page 1.

By Mr. A. L. Reed:

Q. That is page 1, is it not?

A. Yes.

Q. Go ahead.

A. On page 1, I have taken the expenses in the groupings found by Dr. Edwards and have related that entire group of expenses to the total so that that figure would be slightly different than the expenses for line haul and terminal shown on sheet 2. There would be no relation, direct relation, between the two.

Q. I did not understand whether in one instance the 3 per [fol. 1651] cent related only to terminal and in the other instance the seven per cent related only to line haul or vice versa. Which is it?

A. Well, as I see these two sheets, you cannot compare them. One of them is a combination of groups for the purpose of showing the line haul maximum and minimum and

average; and the other grouping, the terminal expenses combined to show the maximum, minimum and average. Now, sheet 1 is the total expenses assigned to the group. If we combined those expenses in that manner to produce a cost per mile or per car mile, we could get the result from sheet 1 that we got on sheet 2. There is a different set of computations involved in the two sheets. Therefore they cannot be compared.

Mr. A. L. Reed: Now, I did not understand clearly what you said concerning the effect of the length of haul on cost.

By Mr. A. L. Reed:

Q. Am I to understand from your testimony that there is some variation, in your opinion, in Dr. Edwards' cost study concerning the allocation of expenses to the length of haul in exhibit 3?

A. No. That is not the allegation. The allegation is simply to answer the statements which have been made, that costs should directly vary with the haul distance. That is not attempted in Dr. Edwards' exhibit. As here pointed out, one showing that could be made was to show that costs would vary differently in different sections of haul between [fol. 1652] 10 miles and 300 miles. The lower hauls would vary more nearly directly with the hauled distance, and the higher or longer hauls would vary very slightly with the distance hauled, the unit cost of haul.

Q. It is your conclusion, then, that the method and formula used by Dr. Edwards has produced substantially the correct result with respect to the varying hauls shown in his exhibit 3?

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. One further question: From the study you have made would you say that Dr. Edwards' cost figures for handling boxcar traffic, less than carload and carload, are substantially correct?

A. Yes, sir. I feel they are the best efforts that have ever been made along that line, at least.

Mr. A. L. Reed: Thank you.

Chairman Aitchison: Is there any further cross-examination? (No response.) Is there any redirect, Mr. Norman?

Mr. Norman: No redirect.

Chairman Aitchison: Exhibits 86 and 87 are received in evidence.

(Exhibits Nos. 86 and 87, Witness Saunders, received in evidence.)

Chairman Aitchison: You may stand aside, Mr. Saunders.

(Witness excused.)

[fol. 1653] Chairman Aitchison: Call your next witness.

Mr. Norman: Mr. Chairman, we have agreed that we would step aside and let Mr. Hillyer present Governor Holland. I do not know whether the Governor would rather go on now or adjourn till 1:30 and then go on.

Chairman Aitchison: You may call Governor Holland now.

Mr. Hillyer: Be sworn, please, Governor Holland.

SPESSARD L. HOLLAND, was sworn and testified as follows:

Direct examination.

By Mr. Hillyer:

Q. Your name is Spessard L. Holland?

A. Yes.

Q. You reside in Tallahassee, Florida?

A. Yes.

Q. You are Governor of the state of Florida?

A. Yes.

Q. Have you a short statement with respect to Florida's position in this case which you would like to make?

A. I have.

Q. Proceed, please.

A. Mr. Chairman, and gentlemen: I am attending this hearing and am delighted to have a chance to do so as a member of the Class Rate Committee of the Southern Governors' Conference of which Governor Cooper of Tennessee testified yesterday as Chairman. I heard Governor Cooper's testimony yesterday in its entirety and I concur

[fol. 1654] entirely in his statement. By way of brief comment on it I would like to say that Governor Cooper's statement voices the actual attitude of all members of the Southern Governor's Conference and that the Southern Governor's Conference has been behind the bringing of this case as its principal activity, although not its sole activity.

I have three brief observations I would like to make. First, with respect to the statement made by Governor Cooper, I would like to say that all of the governors and all of the states represented by them appear in the belief that the South as a whole is entitled to relief as prayed for in this matter. The South seeks uniform class rates, mile for mile, north and south, east of the Mississippi River including peninsular Florida; and we are, of course, most willing that the territory west of the Mississippi should share in the benefits of this hearing in seeking to obtain a uniform level. As to what that uniform level should be, it is our judgment that that may be safely left to the judgment of the Commission to be built upon a basis so that the railroads in the aggregate may earn money. We want to make it clear that we are not indulging in a railroad baiting or in an effort to deprive the carriers of the opportunity to make a legitimate profit.

My second observation has to do with my own state [fol. 1655] and is the real occasion for my appearing separately from Governor Cooper. Florida earnestly seeks the removal of the Florida arbitraries, roughly 15 per cent added to the Southern rate, which placed the class rates in our state upon a plateau well above the level of the other Southern class rate scales. We, of course, have had many and widespread complaints in Florida from Florida shippers who feel that they are unjustly discriminated against by reason of that arbitrary. We have caused to be prepared a case by presentation here of several witnesses who will appear and briefly outlining what we shall seek to show by them, we will hope to present satisfactory proof in support of the elimination of the Florida arbitraries on the following points:

We will show that Florida's freight tonnage has grown to enormous proportions since the Southern Class Rate Investigations of 1922-1928 and now constitutes a highly profitable business. That is, even after the elimination of all arbitraries. Second, that the existence of the arbi-

traries has caused a heavy diversion in our state of freight tonnage to water and motor lines and has, through that means, been injurious to the Florida railroads and Florida brokers. Third, that the railroads themselves recognizing this, have voluntarily removed the arbitraries within Florida on classes 1 to 7, though not as to classes 8 to 12. Lastly, that the Interstate Commerce Commission in its discretion, for which we are thankful, recently prescribed [fol. 1656] rates on livestock from Florida and the South to the North without the imposition of any Florida arbitraries.

Florida earnestly desires restoration to equality with the other Southern states; that is, irrespective of the outcome of the principal petition which in no way would be prejudiced because we think that we and the other Southern states are entitled to the relief prayed in the principal petition and we believe that we shall show ourselves entitled, in the presentation of our own case, to this relief. In short, Florida would very much like to cease the present situation under which we are neither fish, flesh nor fowl and get back to being part of the solid South again.

The third observation which I would like to make briefly is this, and in this matter I voice the attitude of all Southern governors on a point which was discussed by them recently at a conference at Nashville in connection with the National Governors' Conference: We earnestly desire a prompt decision, as quickly as it may be rendered, on this matter. The investigation is now three years' old and the war conditions have made prompt action in our judgment imperative as part of the National Policy and even the war strategy. The directing heads of the war effort both civilian and military have on several occasions appeared at conferences of the Governors and have urged that for [fol. 1657] various military reasons key industries, vital industries, be decentralized and spread out over vast stretches of the country; and as is known to every citizen, that course has been followed very largely up to now and is being followed as rapidly as possible.

It is our view that the taking of prompt action in this case is necessary so that these war industries will have uniform levels of rates so that at the end of the war they can convert to peace-time manufacture, both to prevent maladjustment in labor population and the like, and to

keep our nation from getting back into the old rut, the old situation of too many key industries in one region, thus jeopardizing our own security and the peace of the world.

We feel that no American will say that such efforts to carry out this new National Policy of distribution or scattering of industry is other than in the immediate public interest. We feel as well that there is no better time to establish uniform class rates than right now. The railroads are handling an immense volume of traffic, operating at heavy profit, as shown by the exhibit just introduced by Dr. Saunders, and without a great deal of water and truck competition with which, in our region, they have customarily to compete. It is our sincere feeling that in the interests of the nation as a whole and in the interest of justice to the nation as a whole, affirmative action of the granting of the petition in this case should be promptly given.

[fol. 1658] Mr. Hillyer: The witness is tendered for cross-examination.

Chairman Aitchison: Mr. McCollester.

Cross-examination.

By Mr. McCollester:

Q. Governor Holland, we have heard a considerable amount of talk of uniformity, but so far, at least as I am concerned, the record still is not clear as to what is meant by that word as it has been used. Therefore, I ask you, sir, whether it is the desire of the Southern Governors' Committee of which you are a member, that the class rates within Southern territory be put upon the Northern level?

A. It is our desire to proceed under this legislation of 1940, the amendment to the Interstate Commerce Act, in securing reasonable levels which we think would be uniform levels in the territory east of the Mississippi River, of class rates. We believe that these reasonable levels affording reasonable profit would be uniform and we base our opinion upon showings such as that made by Dr. Saunders this morning, and upon the study which he referred to, and upon which he based his analysis of Dr. Edwards' study.

Q. Well, then, I am constrained to ask you——

A. To conclude on that, it would not be my belief or understanding that if a rate were found in Official terri-

tory to be unreasonable in that it was too small, that we would be entitled to it as a matter of course. I do not [fol. 1659] think anybody would be entitled to that kind of a rate, but rather, a rate which is fair and reasonable and uniformly applicable in the territory east of the Mississippi. Because of what we believe is an even lesser cost of operation, using the entire all-inclusive tariff in the South as compared with the North, we believe the rates east of the Mississippi should be uniform, but not necessarily on an identical level now reflected in the Official rates. That we are perfectly willing to leave to the judgment of the Commission.

Q. In other words, Governor, the concern of the Southern Governors is not with the interterritorial rates alone, but is with the rates within their own territory and it is your desire that there shall be a uniform level of rates both within the respective territories and interterritorially throughout the entire section of the country east of the Mississippi, is that correct?

A. We believe we are entitled to that kind of uniformity, but we do not believe that those rates should simply restate the Official rates. We think they should be based upon a level which would permit the continued operation of the railroads serving the country and the area mentioned in north and south hauls at a reasonable profit.

Q. Can you express an opinion here as to whether that uniformity you refer to should be brought about by increasing the Northern rates?

[fol. 1660] A. I am unable to break that down. My understanding has been that the study made by Dr. Edwards would indicate increases in some of the rates. Certainly, if they do not cover the cost of operation, much less cost plus a reasonable profit, there is no justification for continuing them, in my judgment.

Q. On the other hand, if it appears that the railroads in Official territory are doing fairly well financially, is it your position that the rates in Southern territory should be reduced to the Northern level in order to accomplish uniformity in that way?

A. I think I have already made my position clear, Mr. McCollester. I think we are entitled to uniformity. I think the rate level should be fixed by the Commission

on a basis which will allow continued operation at reasonable profit——

Q. And that uniformity——

A. —and that neither industry nor the carriers nor the Commission should be bound by the shibboleth of a rate already fixed, but that it ought to be subject to reexamination as to whether it is reasonable.

Q. That uniformity you would have to extend to Florida so that rates within Florida should be on the level within Official territory?

A. I would want the rates in Florida to be on the same level as rates elsewhere east of the Mississippi because I think the facts would justify it.

[fol. 1661] Q. Would you extend that uniformity to Northern Maine?

A. I am not familiar with that situation.

Q. Northern Maine is east of the Mississippi River, is it not?

A. I am not familiar with the situation in Northern Maine, but am quite willing to abide by the Commission's judgment on that. As I understand it, this legislation requires a re-examination of this whole question in an effort to get fair rates that will get away from the long-time discrimination against the South. If there have been other areas discriminated against, I think exactly the same policy applies.

Q. Now, Governor Holland——

A. And if there have been some industries which, by paying too much, carried others which were not paying the cost of transportation, I have firm confidence that the Commission will know how to straighten that out.

Q. Governor, if some of the Northern states and Northern manufacturers feel that Southern manufacturers have had an advantage which is denied to the North in lower rates on raw materials within the South, is it your position that uniformity in the raw materials rates in the two territories should be brought about?

A. Mr. McCollester, I understand this is a beginning, but not an attempt to do the whole job at once.

Q. If the Southern Governors——

[fol. 1662] A. If there is necessity for reexamining some other rate, I take it for granted that those who are aggrieved by it will have exactly the same access through exactly the same procedure as is being followed in this case.

Q. Have the Southern Governors given any consideration to any rate advantages that they may have in the South in the form of lower rates on raw materials?

A. We tried to get a reasonable understanding of the whole picture, yes.

Q. You realize you have some advantages in lower rates on raw materials than we have in the North, do you not, Governor?

A. If we have rates in the South that do not pay the cost of operation, then I say those who are aggrieved have exactly the same remedy that we have, and I would not think much of them if they did not come to the Commission and ask to have it straightened out.

Q. Do you see any reason why your idea of uniformity, if it is correct, should not be extended to every rate on every pound of freight there is?

A. I would rather leave that to the judgment of the Commission as those matters are presented. Certainly, so far as I am concerned, I would want the railroads to be fairly treated, but I would also want all shippers and all industries to be fairly treated. It is our strong conviction that we have not been so treated in the South for so many years [fol. 1663] that none of us remember to the contrary.

Mr. McCollester: Will you answer the question, please, Governor? Read the question, please, Mr. Reporter.

(Question read.)

A. I am not sufficiently familiar with it to answer that question categorically. I will repeat my answer that I am perfectly willing to let the people who are aggrieved bring their case before the Commission and have the case judged in so far as it affects us by the standard of our willingness to pay a fair rate. We certainly expect to pay a fair rate.

By Mr. McCollester:

Q. Governor, can you tell me any consideration which you rely upon as showing that the class rates within the North and within the South should be uniform which does not likewise indicate that there should be uniformity of rates on raw materials?

Mr. Norman: If the Chairman please, I feel I ought to object to that line of cross-examination. We are not here trying the case of these commodity rates. When that comes

on, there will be many things to be said. My guess is that if we ever secure uniformity in class rates, our Northern friends are going to want the commodity rates by which they draw our raw materials to the North, reduced instead of increased, but whatever that may be, that is a question for another time and it does not seem to me this witness has testified anything on direct examination with respect to [fol. 1664] it. It does not seem to me that he ought to be queried about it.

Chairman Aitchison: We want you to have reasonable opportunity and reasonable latitude in cross-examination, Mr. McCollester, but we cannot try out these commodity rates here. We do not want necessarily to commit the parties to what their position is going to be on an issue that is not yet here.

Mr. McCollester: Mr. Chairman, of course our position is that our Southern friends are looking at only one side of the page, and a fair picture requires an examination of both sides. I want to find out whether they have examined both sides and what their conclusions are.

Chairman Aitchison: You can ask that.

Mr. McCollester: I have asked that, I think, in my last question.

Chairman Aitchison: No. Your last question goes further than that.

Mr. McCollester: May I have the question read back?

Chairman Aitchison: Yes.

(Question read.)

Chairman Aitchison: You asked to have the question read.

Mr. McCollester: Yes. Now I would like to have it answered, Mr. Chairman.

Chairman Aitchison: The objection is sustained.

[fol. 1665] Mr. McCollester: Nothing further.

Chairman Aitchison: Are there any other questions of Governor Holland?

Mr. Bee: I have one or two questions.

Chairman Aitchison: Mr. Bee.

By Mr. Bee:

Q. Governor Holland, you have emphasized in your answers, "East of the Mississippi River." If the cost factors before the Commission in these proceedings indicate

that the Southwest is on a parity with the South and especially with Florida, would you ask that there be a different treatment east of the river than west of the river to cover the Southwest?

A. Certainly not. I tried to make it clear in the first part of my statement that Governor Cooper had correctly stated the attitude of the Southern Governors as a whole. We want every area to have all the relief in these proceedings which they think they are entitled to have.

Q. Whenever you use the term "East of the Mississippi River," you intend to include the Southwest if the cost data and other factors are the same?

A. No. I do not intend to include anything but east of the Mississippi because we have confined our case to that. But I did intend to say and I do now intend to reiterate that we certainly want every other discriminated against area to have the relief it is entitled to and can show it has a [fol. 1666] right to have.

Mr. Bee: Thank you.

Chairman Aitchison: Is there any further cross-examination?

Mr. J. R. Bell: I have just one or two questions, Mr. Chairman.

Chairman Aitchison: Mr. J. R. Bell.

By Mr. J. R. Bell:

Q. You referred to the subject of decentralization in your direct testimony. Am I correct in my understanding that it is your opinion and the opinion of your associates in this movement that there should be a decentralization of industry, particularly manufacturing now located in Official territory?

A. My statement was this, on that point, that it had frequently been brought officially to the attention of the Governors at Official meetings called for the purpose, by those high in the councils of the nation, the army, navy and civilian authorities, that such decentralization was not only advisable, but highly necessary to promote the national security and that such decentralization was now being accomplished. My further statement was that in my judgment it would be the height of folly not to alleviate this situation until after the war's end. At least as to rates these new plants would have a chance to adapt themselves

to peace-time production, both to avoid the displacement that would take place if they simply proved to be "white [fol. 1667] elephants," and also to keep them running for the very reasons for which they have been established, namely, in order that they may be available for the defense of our nation. We have been caught once in this situation. I do not believe that we should idly stand by and allow a setup to continue under which we get right back into that situation.

Q. Now, what is your opinion and the opinion of your associates, if you can speak for them—I think you have undertaken to do so—as to whether there should be a decentralization of industry, particularly manufacturing, now located in Official territory? Can you answer that directly?

A. My own testimony on that point and my own belief is that the matter called to our attention by the national government——

Q. I am asking——

A. I am trying to answer your question.

Q. Pardon the interruption.

A. (Continuing) —had to do not with industry in general, but with basic or key industries from the standpoint of the defense of the nation. I was limiting my statement to those industries and to the decentralization which is now taking place in those industries.

Mr. J. R. Bell: I am sorry, but I have difficulty in following you. Perhaps someone else can understand it, but I find myself unable to.

[fol. 1668] By Mr. J. R. Bell:

Q. Do I now understand you to say when you comment on decentralization that you are not referring to the present location of industry, particularly manufacturing located now in Official territory?

A. Not in the slightest. I am talking about the decentralization which is taking place as a necessary part of the war effort and the feeling on the part of the Southern Governors, and I think on the part of most other good citizens that we should not forget this lesson, but should permit that decentralization to afford us places from which we can in the future, if we need them, immediately begin the production of war goods, vital war commodities.

[fol. 1669] Q. You used the expression "permit that decentralization". I am trying to find out what decentralization you have reference to.

Chairman Aitchison: I think that is clear on this side of the bench. The Governor has gone over it four times.

Mr. J. R. Bell: If it is clear to you, I am sorry. I do not understand it. That is all.

Chairman Aitchison: Is there any further cross examination of Governor Holland? (No response.) Have you anything further, Mr. Hillyer?

Mr. Hillyer: Nothing further.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: We have been asked by several of the participants in the hearing to announce if possible the hour of adjournment on Thursday, so they may guide themselves in making reservations and other business arrangements. We have decided that the hearing must suspend at 3 o'clock sharp on Thursday, so you can count on that in making reservations and other arrangements. Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until 2 o'clock P. M.

(Whereupon at 12:45 P. M., adjourned to 2 P. M.)

[fol. 1670] Afternoon session 2 o'clock P. M.

Chairman Aitchison: Come to order, please, gentlemen. You may proceed.

Mr. Wagner: Mr. Hart.

Chairman Aitchison: Raise your right hand and be sworn.

E. L. Hart was sworn and testified as follows:

Direct examination.

By Mr. Wagner:

Q. Will you state your full name for the record, please, Mr. Hart.

A. My name is E. L. Hart.

Q. Your residence?

A. Atlanta, Georgia.

Q. What is your occupation?

A. I am secretary and traffic manager of the Atlanta Freight Bureau, a non-profit association composed of the principal shippers and receivers of freight in the so-called Atlanta industrial district. My experience embraces a period of some 30 years on both sides of the fence. I have been with my present organization since 1921, occupying my present position since 1932.

Q. Have you prepared an exhibit for presentation at this proceeding, Mr. Hart?

A. I have.

Mr. Wagner: We ask that this exhibit be marked for [fol. 1671] identification as No. 88.

Chairman Aitchison: It may be so marked.

(Exhibit No. 88, Witness Hart, marked for identification.)

By Mr. Wagner:

Q. Since this exhibit was prepared, Mr. Hart, have you found some errors in it?

A. I have prepared an errata which has been distributed, so far as I know, to everyone who is interested.

Mr. Wagner: To avoid confusion, Mr. Chairman, we ask that that be given the next exhibit number.

Chairman Aitchison: I think it might be well to mark it as an exhibit. It will be marked as Exhibit No. 89.

(Exhibit No. 89, Witness Hart, marked for identification.)

By Mr. Wagner:

Q. That exhibit was prepared by you or under your supervision?

A. It was.

Q. Since you have been here, have you put in writing some of your testimony?

A. I have.

Mr. Wagner: If the Chairman please, may we put that in as an exhibit?

Chairman Aitchison: If it is satisfactory to the parties. It has been distributed, has it?

Mr. Wagner: It has been distributed.

Chairman Aitchison: Is there any objection to that procedure?

[fol. 1672] Mr. McCollester: I have no objection to the method of incorporating the testimony in the record if the Chairman rules that the testimony is admissible. I direct your attention, however, to the fact that the discussion in the proposed exhibit is to a large extent argumentative. It contains references to and quotations from the Commission's decisions and attempts to put thoughts into the minds of the members of the Commission. It seems to me that to a large extent it is inadmissible in general, and certainly under the Commission's rules. I object to it for those reasons.

Mr. Wagner: If the Commission please, to show the history of a rate adjustment you have to cite decisions of the Commission, and if Mr. McCollester will point out particular points, we can consider those particular parts.

Chairman Aitchison: This can be copied into the record and Mr. McCollester can point out the parts to which he wishes to direct objections, or it can be marked as an exhibit, either one.

Mr. McCollester: It is very hard to select certain parts, Mr. Chairman, but I would say that from page 4 all the way through, at least, to page 21 or 22, it is very definitely a brief and not testimony.

Chairman Aitchison: It is proper, of course, and a fair thing to do to refer to the decisions of the Commission [fol. 1673] which are being relied on in support of a rate history.

Mr. McCollester: That is correct, but when there are such statements as "Mr. Eastman apparently concedes this" and other similar statements, I submit it is going beyond the realm of testimony within the Commission's new rules of practice.

Chairman Aitchison: They are no different in that regard than they used to be.

Mr. Wagner: We offer this in evidence as an exhibit, Mr. Chairman.

Chairman Aitchison: You want to offer it as an exhibit?

Mr. Wagner: Yes. I think it would save expense, time and effort.

Mr. McCollester: For instance, another shining example, Mr. Chairman, you will find on page 27, where it says, "We

come now to the effusions presented by Witness Jensen at the St. Louis hearing in this case." And further: "Mr. Jensen apparently tried to refit the garment," and so forth.

Mr. Wagner: That is testimony.

Chairman Aitchison: What is that?

Mr. Wagner: That is testimony, in effect.

Chairman Aitchison: It is a little too argumentative. We have to credit other people with the same desire to testify correctly as we do ourselves. The objection is [fol. 1674] sustained to the discussion of the dissenting expression of Commissioner Eastman found on pages 20 and 21 of the exhibit, the first two paragraphs of the latter page. I think the word "effusions" is doubtless a misprint for "exhibit", is it not, Mr. Wagner?

Mr. Wagner: Perhaps the witness did get a bit too enthusiastic at that point, Mr. Chairman.

The Witness: I do not know, Mr. Chairman, whether I can recall just what I had in mind when I wrote that.

Chairman Aitchison: It is not courteous to a witness to use language such as that.

The Witness: I will say that I did not mean it in any discourteous way. I will say that.

Chairman Aitchison: Are you willing to change it to "exhibit"?

Mr. Wagner: Yes.

The Witness: Yes.

Chairman Aitchison: The rest of it seems to be clearly competent. This document will be marked for identification as Exhibit No. 90.

(Exhibit No. 90, Witness Hart, marked for identification.)

By Chairman Aitchison:

Q. This Exhibit No. 90 is true and correct, is it, Mr. Hart?

A. Yes, sir.

Chairman Aitchison: Proceed, Mr. Wagner.

[fol. 1675] By Mr. Wagner:

Q. Proceed with your discussion of your exhibit No. 88, please, Mr. Hart.

A. I appear here to present certain rate studies on behalf of the Southern Governors' Conference relating to the

issues covered by the Commission's order in Docket 28300 and 28310, so far as it pertains to rates in that section of the country lying east of the Mississippi River.

These studies and the explanation of them necessarily disregard the transportation and economic conditions now apparent because of the war; but, rather, the matter has been approached from the standpoint of normal conditions which we sincerely hope will soo- be restored. In any event, the time is none too early to prepare for the post-war readjustment in which transportation seems destined to become of greater importance than ever before.

The exhibits, primarily, are intended to show only typical illustrations of the inadequacy of the present Southern territorial and interterritorial rate structure as related to Southern industrial development, and to prove the need of a new structure responsive to the immediate needs of the South. On the title page of my exhibit the contents are summarized in a general way. Section 3 is subdivided into four parts, sub section 3-A containing excerpts from the Interstate Commerce Commission, sub section 3-B, a comparison of interterritorial rate levels, sub section 3-C also [fol. 1676] interterritorial rate levels, and sub section 3-D, commodity rate levels. Section 4 is also divided into three sub sections, sub section A covering classification and classification exceptions comparisons, section 4-B class rate comparisons, and section 4-C, rate levels affected by truck competition. Sheet A is a general index to the exhibit. Sheet B is a table of the cases referred to throughout the exhibit. Here I have assembled the citations in the sequence in which they appear in the exhibit, rather than alphabetically.

The sections east of the Mississippi River referred to as Official and Southern territories were originally divided into sub sections, so to speak, by virtue of the control of rate policies by certain carriers or groups of carriers. For instance the rate structure within and between the three subdivisions of Official territory grew up independently of each other and with little common resemblance. Similarity was to be found only in the intraterritorial rates in Central and New England territories, which were built on the principle of distance, with a uniform relation between classes.

The pattern in Official territory was altered somewhat in Investigation & Suspension Docket No. 965, 45 ICC 254 and 46 ICC 476, generally referred to as the CFA Class

Scale Case, and was further overhauled in Eastern Class Rate Investigation.

[fol. 1677]. The same character of revolution took place in Southern territory by virtue of the Commission's findings in Southern Class Rate Investigation. For instance, in the South prior to that time, as the map designated as sheet 1 of section 1 will show, there existed three distinct rate territories in which obtained different rate levels that were dictated in the first instance by the influence of particular rail carriers serving these sections of the South, that is, the Mississippi Valley, the Southeast and the Carolinas. In the beginning, the rate policy of the carriers serving these subdivisions of the South was entirely different. In some instances that difference was even greater than is presently apparent between the carriers serving Southern and Official territories.

Additionally in the South, as you will observe from the map, there is a territory designated or described as relating to the Ohio River. In that section of the South the rates both to and from the South were related to the rates to and from the Ohio River crossings. Sheet 2 of section 1 is a map which depicts what we call in the South controlled territory, that is, the territory lying north of the Ohio River generally known as the higher pay territory, which is served by north and south lines operating in Southern territory, such as the Illinois Central, the Louisville & Nashville and the Southern Railway. It is also served by the Monon, which is controlled [fol. 1678] by stock ownership jointly by the Louisville & Nashville and Southern Railway. To this territory, generally speaking, the lines serving the South or the carriers serving the South are usually able to and do accord Southern manufacturers rates that are in most instances, mile for mile, the same as those applied in Official territory.

The next map which is shown as sheet 3 is introduced to show the present framework, so to speak, of the rate structure east of the Rocky Mountains. Some slight modifications have been made in that section of Southwestern territory since this map was drawn. That is, zone 4 in Southwestern territory has been changed to the extent of applying the zone 3 class rates and that was done by voluntary action by the Southwestern lines. Also, the southeast corner of New Mexico has been included in some instances in the Southwestern adjustment; but otherwise the map is a cor-

rect picture of the present rate territories in that section of the country lying east of the Rockies.

As a practical matter the old framework so far as Southern and Official territories are concerned, was left to stand. Section 2 relates to the incongruities of the present class rate structure east of the Mississippi River. There are shown typical examples of how ill-fitting is the Southern portion of the rate pattern prescribed in Southern Class [fol. 1679] Rate Investigation. Sheet 1 of this section merely compares the progressions, so to speak, of the two first class mileage scales prescribed by the Commission in the Southern and Eastern cases. The purpose of the exhibit is to show the rapid, or more rapid progression, as I might put it, of the Southern scale compared with the Official territory scale.

Sheet 2 is filed to indicate the difference in the percentage relationship of the lower classes to first class prescribed in the two cases. You will observe that uniformity obtains up to and including third class. Beginning at fourth class and then on down, the scale of the percentage relationships which the Commission prescribed in either case are different. The exhibit also shows the percentage relationship each of these classes bears to the other. At the bottom of the exhibit for convenient reference is shown the prescribed percentage relationships of those two cases.

Sheet 3 is filed to show the incongruities that flow out of the Commission's prescription of interterritorial first class rates in both dockets 13494, the Southern Class Rate Case, and 21665, which is commonly known as the North Carolina Case. I have used representative origins in Official territory and certain representative destinations in the South indicating the varying differences under and over the K-2 scale that the prescribed first class rates represent from [fol. 1680] Official territory to these Southern destinations. You will observe to some points from Chicago, for instance, that the difference is as high as 58 cents on the K-2 scale. We complained about that condition during the pendency of the Southern Class Rate Investigation. Very strenuous opposition was voiced to the Commission about the results of the rates prescribed in that case before they became effective, and we were joined in that opposition by the Southern carriers. We had certain hopes at that time that this condition would be corrected. In other words, from Southern origins to these same destinations, the Southern

shippers are required to pay the full K-2 scale and it does not seem altogether right or fair that Official territory shippers should be permitted to come into our own territory on a less relative rate than applies within the South. Nevertheless, that is the result of the Commission's findings in the Southern Class Rate Case. That it is prejudicial to us goes without saying.

Sheet 4 of Section 2 contains similar comparisons. Reference might be made to the first class rates to—well, for example, I might take Durham, North Carolina, shown on the left-hand side about the middle of the exhibit. From Pittsburgh, for instance, the first class rate is 39 cents less than the K-2 scale. From Alabama City, an equi-distant point, to Durham, North Carolina,—both points produce manu- [fol. 1681] factured iron and steel articles that are shipped into Durham—that rate is on the full K-2 scale. It is perfectly obvious that any rate that might be related to that first class rate would be preferential to the Pittsburgh shipper. When you turn that rate around, on the right-hand side of the exhibit, Durham going into Pittsburgh, Durham still has a rate 39 cents under the K-2 first class scale, whereas Alabama City has only 6 cents, or a difference of 33 cents in favor of the North Carolina origins.

On sheet 5 of section 2 are further comparisons along this same line except that we merely compare here the first class rates in the South versus the first class rates in the north for Official territory for equal distances, beginning with short distances around 100 miles, and ending with distances approximately of 1,000 miles shown on sheet 6. You will notice that the last entry on sheet 6 shows the difference between the two first class levels for a distance of 961 miles to be 70 cents per hundred pounds.

Sheet 7 of section 2 is also an exhibit to show the inconsistencies and incongruities apparent in the present interterritorial rate structure by selecting what I would term short haul Official territory origins, St. Louis, for instance, and Columbus, Ohio. I would point out that St. Louis is served for instance, by the Southern Railway. Jacksonville, Florida, which appears middleway on the left-hand [fol. 1682] part of the Exhibit, and Durham, North Carolina, are also served by the Southern Railway. Now, from St. Louis to Jacksonville, Florida, the first class rate is 6 cents higher than the full K-2 scale, whereas, to Durham, North Carolina, the rate, the first class rate, is 50 cents less

than the full K-2 scale, all three points being served by one railroad. I have shown similar comparisons with respect to other points. For instance, on the right-hand side of the exhibit we might take Rome and High Point—Rome, Georgia, and High Point, North Carolina. Both of those points are served by the Southern Railway. Both of them manufacture furniture. Both compete at Columbus, Ohio. The rates from both points are made with relation to the first class rate. Rome, Georgia, is one cent over the full K-2 scale, whereas from High Point the first class rate is 32 cents under the K-2 scale.

Sheet 8 is a chart that merely pictures this situation in a little different way. It is fairly self-explanatory and probably needs no further explanation except that I might point out this, that, for instance, the first class rate from Chicago to Jacksonville, Florida, receives the full K-2 scale by 6 cents per hundred pounds. Now, if there is any merit in the so-called lamination of the lower rates in Official territory with the higher rates in Southern territory, then as to these [fol. 1683] points in Southern Georgia on down to Jacksonville, which are higher than the full K-2 scale are not accorded, the shippers are not accorde- the benefit of the 284 miles in the so-called lower-rated territory. Most of the inconsistencies referred to in this section come about by the improper lamination of the re-made Southern rates with those then in existence in Official territory.

In the sheets I have just been discussing, I have referred primarily to the rates between what is known as Central Freight Association territory or that part of Official territory known as Central Freight Association territory, Illinois Freight Association territory and the South. I now come to the question of first class rates which the Commission prescribed in the Southern Class Rate Case from Eastern Trunk Line and New England territories. In the prescription of first class rates between the South and those territories, the Commission pretty well followed the same territorial lines of demarcation both as to origin and destination that had existed over a period of some 40 or 50 years. Those rates, it was claimed, were controlled by the water and rail routes operating from the North Atlantic ports. However, this adjustment was carried back to as far west as the western termini or the Buffalo-Pittsburgh line. The adoption of this prior plan of the carriers in constructing rates from Trunk Line and New England territories, it is

[fol. 1684] my opinion, was a fundamental error. The railroads subsequently set up an all-rail structure based on the laminated or so-called K-2—Q-1 formula from these territories and to which certain rates are now tied. I will put it that way.

Sheet 9 is a picture of the grouping of New England territory, origin territory, to the South. Sheet 10 is a picture of the Trunk Line grouping to the South. Sheet 11 is the Southern grouping in the Trunk Line, New England and Southern structures. These first class rates, as we see it, also cause incongruities both as to origin and destination. I have shown on sheet 12 certain comparisons as between the maximum origin blanket and maximum destination blanket from certain of the origin groups to certain of the destination groups. For instance, with respect to the Boston group, there is an actual difference of 20 miles. There is a destination blanket of 199 miles, so we have there an overall distance of 400 miles on the one rate. Those inconsistencies, of course, are shown more in detail on sheet 3 of section 2.

The chart shown on sheet 13 of Section 2 shows the actual first class rates that are in effect from New York to New Orleans, Louisiana, and in the reverse direction and to the intermediate points both southbound and northbound. You will observe as to the southbound rates the line designated [fol. 1685] as "constructive first class rates". They are the rates that were constructed on the same formula as the rates from Central Freight Association territory and to which certain classes of traffic are related from the South. In other words, we will have a certain class of traffic that will be related to the prescribed first class rates. Others are related to the constructive first class rates.

By Chairman Aitchison:

Q. Will you indicate on that chart where the K-2 scale runs out and the Q-1 begins?

A. Mr. Chairman, it runs out—it meets between Atlanta and LaGrange, Georgia. I am talking now about the constructive first class rate. Then in the opposite direction, the full K-2 scale applies to the border of Southern territory.

Chairman Aitchison: Lynchburg?

The Witness: Lynchburg.

Chairman Aitchison: Yes.

The Witness: Of course, that border has now been moved further down under subsequent decisions of the Commission in the Carolina Case or the Border Cases, but at the time of the prescription, and for that matter the rates today from Atlanta, for instance, from the South to Lynchburg, are on the full K-2 scale. Sheet 14——

Chairman Aitchison: Pardon me just a moment.

The Witness: Yes.

By Chairman Aitchison:

Q. Does the Q-1 scale have the humps in it which are [fol. 1686] shown there?

A. It is not drawn for the purpose of showing comparisons as to progression, Mr. Chairman. This was drawn to show what the situation is at actual points over the direct route from New York to New Orleans and of course the line would not be straight. The purpose of it is to show the inconsistencies of the first class rates which the Commission prescribed in the Southern Class Rate Investigation, as compared with any other mileage basis of rates equally applied.

By Com. Alldredge:

Q. Are these the short line distances?

A. Yes. This is the short line distance.

Q. Then these humps actually do appear, is that right?

A. Those are the actual rates at those points, yes.

Q. Whatever humps they make are actual?

A. That is correct.

Com. Alldredge: That is what the Chairman, I think, was asking.

The Witness: This is a realistic picture, and not a theoretical picture.

By Chairman Aitchison:

Q. As a matter of fact, the movement from New Orleans to New York——

A. Yes.

Q. —might actually be through the points shown on the humps, Washington, Baltimore and Lynchburg?

A. Yes.

[fol. 1687] Chairman Aitchison: Yes.

The Witness: For instance, Mr. Chairman, from New Orleans to New York there are certain classes of traffic that would be related to this lower scale which is indicated as first class rates, Docket 13494. There are certain other rates that would be related to the constructive first class rate which is the top scale. The K-2 scale, if it was applied all the way through, the full K-2 scale, disregarding the distance between New York and Lynchburg, which is shown there as 401 miles—New Orleans does not get any credit for that haul of 400 miles within a lower—what they say is a lower-rated territory, although I do not admit it is a lower rated territory. There may be these lower rates there, but anyway, they do not get any benefit of it. If they had the K-2 scale applying all the way through, they would have a lower rate than they have today, by virtue of attaching to that traffic the relationship of the top line or constructive first class rate.

Sheet 14 of Section 2 merely compares the spread in distance and cents over this same route, although I stopped here with Mobile rather than carrying it on from New Orleans because the paper ran out at Mobile and we just cut it off there. In any event, it shows the inconsistencies and incongruities that flow out of this Trunk Line adjustment into the South. For instance, you will observe that the present [fol. 1688] rate from New York to the first group, which is 98 miles, progresses 19 cents. The next group, including Washington and Orange, Virginia, for a distance of 107 miles, has a progression of 15 cents. Then to Lynchburg, which is the border point, 13 cents. Then it jumps for 112 miles to 23 cents. I want you to observe what it does in the next group for 94 miles, in which Charlotte is an important point to be included. It progresses 31 cents. No such progression comes about by virtue of the scales I have shown to the right of this comparison. In other words, under the appendix E scale, the progression to the Charlotte group would only be 14 cents. Under the 13494 class rate scale it would be only 13 cents and under the ordinary first class scale it would be only 16 cents. There is something manifestly wrong about the progression of these first class rates. It certainly creates undue prejudice.

By Chairman Aitchison:

Q. How are those New York rates made up to Mobile?

A. They are group rates, Mr. Chairman, specific group rates prescribed by the Commission in the Southern Class Rate Investigation. They are key rates.

Q. They do not reflect the 13494 scale from border points?

A. No. The constructive rates shown on this chart do embody the K-2—Q-1 formula, but the prescribed rates do not. They are arbitrarily made with relation to the water rates.

[fol. 1689] Chairman Aitchison: Perhaps I did not give the correct Docket Number. I was speaking of the Eastern case.

By Chairman Aitchison:

Q. The rates from New York to Mobile would be made up of what factors, again?

A. What Eastern case are you referring to?

Q. I beg your pardon?

A. Are you referring to the—when you say "Eastern case", you refer to the Eastern Class Rate Investigation?

Q. Yes.

A. Well, there were no rates prescribed in that case from New York to Mobile.

Q. No. There was a rate prescribed to the border.

A. The rate to Lynchburg was prescribed in that case.

Q. Yes.

A. The appendix E scale applies from New York to Lynchburg.

Q. How is the combination of the Southern class rate plus the 13494 rate to Mobile made, via Lynchburg?

A. You mean, what would be the total of those two factors?

Q. Yes.

A. They would be higher than the first class rates today, but on certain classes of traffic, dependent upon what they are rated in the classification, you would not find that the Lynchburg combination would cut as far back as Mobile, but it would cut as far down as Atlanta on some particular class of traffic, but not first class. For instance, if you had [fol. 1690] an article rated in the South—you see, these interterritorial rates are governed by the Southern classifica-

tion. If you had, for instance, an article rated sixth class in Southern classification and third class in Official, probably the combination would cut down as far as Atlanta or somewhere in that neighborhood; but as to first class, of course, it does not have that effect.

Chairman Aitchison: Proce-d.

The Witness: I think that the chart shown on sheet 15 pretty well confirms everything I have said about the inconsistency of the Trunk Line-Southern adjustment when we look at the rates from Washington, D. C., to points such as New Orleans. For instance, to all destinations on the Southern Railway over their main line, which is the short route, just out of Charlotte, or between Charlotte and Spartanburg from that point to a point almost to the Alabama line just beyond LaGrange, Georgia, the first class rates today exceed the Southern K-2 scale. I just cannot help but express the observation here that I just do not see any justification for the Southern Railway serving both points carrying rates that are higher than within the South, and they were fixed by the Interstate Commerce Commission. Of course, I think these inconsistencies from Washington come about by an effort on the part of the Commission to carry Washington along with Baltimore rather than adjusting it to the Southern basis.

[fol. 1691] The Commission in the Trunk Line and New England adjustments to the South stated that the purpose of prescribing key rates from that section to the South rather than the so-called laminated formula, was because of the rail competition.

On sheet 16 I have shown a number of destinations both including ports and interior points from New York. Take a port like Wilmington, North Carolina. The first class rates prescribed to New York have a higher relationship to the K-2 scale than some of the interior points. The same is true at Jacksonville and Savannah. Where it would appear that the rates to those ports were controlled by water competition, certainly those rates would be relatively less than the rates to the interior. That further supports my contention that the Commission made a fundamental error when they followed the railroads in the suggestion that the old plan of rate construction between Trunk Line and New England territories to the south be continued. I think they should have made the rates on the same basis all-rail as from the balance of Official territory and then if

the water lines or the lines controlling the routes through the North Atlantic and South Atlantic ports saw fit to make rates less than the all-rail rates, naturally I think that was their right and they should have been permitted to do so. That sort of plan, of course, was followed by the Commis- [fol. 1692] sion later on in the Eastern Class Rate Investigation in prescribing rates via rail and lake routes from the same territory to destinations in Central Freight Association and Illinois Freight Association territories. In other words, there they made the rates first via the all-rail routes and then they related the lake route rates to those all-rail rates.

Sheet 17 of section 2 further compares the inconsistencies that come about by the Commission's prescriptions in the two cases I have been talking about. This is the only time I have gone out of the territory east of the Mississippi River. I have here shown to points such as Indianapolis, the rates from points in the Southwest and in the Northwest, from the South, from the North and from Canada to equi-distant points in Official territory. The exhibit shows that shippers located at each of these origins all have a different rate structure to deal with when reaching a common destination such as the city in which we now are.

On sheet 18 I have selected three representative producing points of granite. They are actual producing points and I have selected destinations with which, of my own personal knowledge, certain of these southern origins are concerned, that is, Elberton, Georgia, and Salisbury, North Carolina, who on carload shipments continuously and continually are in competition with such an origin as Barre, Vermont, producing granite very similar to that produced [fol. 1693] in the Elberton district. These differences I have shown on this sheet, of course, all come about by virtue of the first class rates which the Commission prescribed in the Southern Class Rate Investigation and the Eastern Class Rate Investigation about which I have been talking. In other words, with respect to the stone rates from Barre, Vermont, the percentage of first class prescribed in the Eastern Class Rate Case, those rates are shown under the heading of "Barre" in the exhibit. I have adjusted the first class rates from Elberton, Georgia, and Salisbury, North Carolina, from the Southern producing points, to the Barre, Vermont, rate, and shown what the rates would be

from the two Southern origins if they were properly adjusted with the Barre, Vermont, first class rate. In the last column is shown the percentage the Southern rates are of the Barre rates. I am talking about the first class rates. Naturally any commodity related to first class would involve the same situation.

For example, take the first point, Fostoria, Ohio. The difference from Elberton is 151 per cent or 51 per cent higher than the Barre rate, mile for mile, although the full measure of the K-2 scale would only give Elberton shippers 138 per cent. There is not a single instance from Elberton where the relationship today on actual movements is anywhere near the full difference between the two first class scales. So as a factual matter, Elberton, Georgia, for [fol. 1694] instance, would be better off today if the rates were made on the full K-2 scale, which they are, as the other part of the exhibit will show. As to Salisbury, due to this laminated formula the Commission has used, you will notice that the rates from Salisbury are somewhat nearer the Barre rates than are the Elberton rates.

Another incongruous condition that flows out of these territorial differences—no. Let me withdraw that.

Chairman Aitchison: Mr. Hart, turn to sheet 18 of section 2.

The Witness: Yes.

Chairman Aitchison: I do not know that I understand this.

By Chairman Aitchison:

Q. You were just talking about Elberton, Georgia, to Fostoria, Ohio?

A. Yes.

Q. The present rate actually being charged, I understand, is $2.16?

A. That is correct.

Q. If the K-2 scale were applied, it would be $2.12?

A. That is correct.

Q. Omit the next column. Then we come to the per cent the present rate is of K-2 first class, and you have 98. Should that not be about 102?

A. Well, you are correct, Mr. Commissioner. That should [fol. 1695] be 102 if 212 and 216 are correct. Your computation is correct. Apparently the present rate is $2.16. Without my worksheets I can't say positively. It may be that

the $2.16 is wrong. If $2.16 is correct, the percentage is of course 102. I would like to have the exhibit corrected, unless I make some correction later on.

Mr. Wagner: If the Chairman please, it looks as though those first two figures were transposed.

The Witness: The 741 on the second line of the first column has a K-2 scale rate of 216. For the 740 you are speaking of, I believe it should be 216 instead of 212.

Chairman Aitchison: All right.

The Witness: It is obviously wrong. Just a minute please. The scale is 212 for 740 miles. It must be that the first class rate of 216 is wrong. I cannot say positively whether 216 is correct without checking my worksheets.

Chairman Aitchison: The case is not going to hinge on that anyway.

The Witness: No. The other figures on the way down seem to be correct. Shall I proceed?

Chairman Aitchison: Yes.

The Witness: Other incongruities flow out of these territorial differences that come about by the imposition of horizontal increases that of course penalize the rate structure in the section having higher rates. In other words, [fol. 1696] the Commission for instance, fixes what it concludes to be the proper relationship of rates between different sections of the country and then subsequently, by granting horizontal increases the same in amount, destroys the prior relationship found to be proper and reasonable. Sheet 19 depicts such conditions.

Section 3 relates to the pattern of the class rate structure in and between the South and Official Classification territory. Sub section 3-A contains excerpts from various decisions of the Interstate Commerce Commission wherein alleged differences in transportation conditions require higher rates in Southern territory than in Official territory. In other words, Mr. Chairman, here I was trying to trace back or trace down, so to speak, this term that has been so commonly used not only by the railroads and the shippers and the like, but also by the Commission in the more recent past. That is, transportation conditions being less favorable in Southern territory, the rates on certain classes of traffic should be higher within the South or between the South and the North. For that reason, my conclusion is, from my familiarity with these various decisions that have

taken place, that the meaning of this term referred primarily to competition, to meet water competition and competition between carriers, and that it had no other meaning, and certainly did not have the meaning that is attached to it today.

[fol. 1697] Section 3-B was prepared to show the rates in the South and the rates between the South and Official territory on the most important classes of carload traffic that originate in the South. The commodities shown in this section are all commodities that move in the South and interterritorially. I have only in a few instances shown less than carload rates. The exhibit shows that some of the traffic moves on the classification basis. Some moves on a percentage of first class. In any event, the relationship between the Southern and Official territory rates are shown both intra and interterritorially. Now, it is a fact that in preparing this exhibit, for instance, I have included commodities on which the rates, for instance, to the border territory, that is, Ohio River cities, in some instances, St. Louis and the Virginia Cities, are made on the northern level. In other words, the Southern carriers have established on certain of these commodities competitive rates at those border points.

Chairman Aitchison: Do you mind taking sheet 1 and explaining the first item?

The Witness: Well, acetic acid is produced in the South. That would be one of our friend's, Mr. Widell, commodities. The reference there shows there is a commodity adjustment in the Southern section. Otherwise it moves on column 30. In Official territory it moves on column 35, which is the classification basis because you will notice on the right-hand [fol. 1698] side that the Official Classification basis is 35. Now, interterritorially it moves on column 30 from the South to Official territory, which is an exception, and then in the next two columns is shown the percentage relationship between the Southern intraterritorial rate and the interterritorial rate. That is 120 per cent of the Official territory in the South and interterritorially to portions of Official territory 120 per cent, and to Trunk Line territory, 110 per cent.

Chairman Aitchison: What I do not understand there is the very last figure on that line, 160 per cent. Perhaps it would be better to take an article like agricultural implements.

The Witness: You are referring now to acetic acid?

Chairman Aitchison: Yes. The same line.

The Witness: Well, now, the classification difference is 160 per cent. In other words, if acetic acid moved in the South and Official territory on the full classification basis, that is 40 per cent in the South and 35 per cent in Official territory, the Southern level would be 160 per cent of the Northern level. I mean, the rate level would be 160 per cent. In other words, I am not comparing classification ratings in percentages here. I am comparing rate levels as the result of these percentages, which have been reduced, of course, by exceptions to the classification.

Mr. McCollester: May I interrupt you right there?

[fol. 1699] The Witness: Yes.

Mr. McCollester: I do not see how we can tell from sheet 1 of section 3 as illustrative which are the class rates or ratings involved here and which are the commodity or exceptions rates or ratings.

The Witness: Well, they are not commodity rates. They are all rates related to first class. It is very easy to look over on the right-hand side and see whether they are the same as the classification. If they are, they are involved here. Otherwise, they are not, technically. But you will find in some instances that the Southern intraterritorial rates are on a column basis or are less than the classification basis, whereas the interterritorial rates are on the classification basis. I can just recall one commodity which is on the last sheet, wine, if you will refer to that.

Chairman Aitchison: Which sheet?

The Witness: Sheet 10. That is a rather heavy moving commodity produced in Atlanta and at other points in Georgia and in the Carolinas. The Southern rates are based on column 40. The classification basis is 55. The Official territory level is Column 44. The Official territory classification basis is also 55. So into Central Freight Association territory and Illinois Freight Association territory we have column 40, which is also less than the classification basis of 55; but when we get into Trunk Line [fol. 1700] territory, we have the full classification basis, which is 55. So to that extent the rates on wine from Atlanta, Georgia, for instance, to New York or Scranton, Pennsylvania, are involved in this proceeding. The only full classification basis on this product is that applying from

the South to Trunk Line and New England territories. Is that clear, Mr. McCollester?

Mr. McCollester: Yes. I guess so.

By Mr. McCollester:

Q. In other words, if the first column of figures in the left-hand section and the first column of figures in the right-hand section are lower, then the rates are involved here; otherwise they are not, is that correct?

A. That is true.

Q. And the per cents in the very last column of the page are what per cents?

A. Those per cents represent the difference between the Southern and Official territory levels under the classification proper ratings.

By Chairman Aitchison:

Q. In other words, you have taken this acetic acid item where the Southern classification basis is 40 per cent, multiplied 139 by 40 per cent——

A. No, sir.

Q. ——or by 40——

A. No.

Q. ——and then have taken 35 and multiplied that by 100, subtracted the two and divided by 35 and got 59. You [fol. 1701] added 100 and got 160?

A. I did not split hairs, Mr. Chairman. I made them in round figures. You might find one is 138, 139 or maybe 140. I did not do it that long way. I have a formula of my own. I do not suppose you would care to have me disclose it, but it results in the same figure.

Chairman Aitchison: We do not want to disclose any trade secrets.

The Witness: I do not want to acquiesce in your formula, that is, state that we arrived at it in that manner. I did not do that, but still the figure is the same. I will admit you may find 159 or 160. I made it 160 because it looked better. It does not make any difference for the purpose of the exhibit.

Chairman Aitchison: Substantially what I have just suggested has been done, has it not?

The Witness: I just observed that that was the long way of reaching the conclusion. I had a shorter way, so I did not do it that way.

Mr. McCollester: Just one more question for explanation.

By Mr. McCollester:

Q. Are these rate levels that you show under the column headed "Southern", where they are not the class basis, the levels of rates prevailing within the South, or are they interterritorial?

A. They are the actual going levels in the South and [fol. 1702] interterritorially except where they are abbreviated—I mean, have a symbol above, and then that is explained on the last page. In those instances there are certain commodity adjustments on that particular commodity.

Q. Are there not some instances where your interterritorial level is different from your level within Southern territory?

A. Surely. That is what I am talking about as incongruities and inconsistencies.

Q. Well, will you give me an example of that.

A. Yes. You can find most any sort of thing you want to.

Q. I mean, right on this exhibit, section 3.

A. What is it you want to know about it, Mr. McCollester? What is it that is not clear to you?

Mr. McCollester: Perhaps I can figure it out. Just tell me this:

By Mr. McCollester:

Q. Do the explanation or reference marks on sheet 10 tell us whether the figures relate to rates within the South or interterritorially?

A. No, sir. They do not.

Q. Then how do we find that out?

A. The exhibit itself shows that. It shows the prevailing rate levels.

Q. I see.

A. It is headed that way.

Q. I see.

[fol. 1703] A. It is very clear.

Mr. McCollester: I am sorry. I apologize.

Chairman Aitchison: Proceed, Mr. Hart.

The Witness: Sheets 11, 12 and 13 of this section merely reproduce the tariff authority for the rates shown in the previous sheets. Section 3-C is a similar comparison of the so-called exceptions ratings in Southern territory. In other words, I have here reproduced the actual carload ratings published in exceptions to the Southern classification intraterritorially. I compare those ratings with the classification ratings or the exception ratings as applied on the same class of traffic in Official territory. This exhibit is prepared in the sequence that the Commision uses in its commodity statistics. That was done primarily for the purpose of indicating that there are commodities in all of these groups from raw materials on up to the manufactures and miscellaneous that move on percentages of first class. The raw material rates certainly do not reflect a commodity adjustment as some have inferred here. Pages 1 to 3 are the products of agriculture. Page 4 is products of animals—that is, animals and products. Sheet 5 is products of mines. Sheet 6 does not show for the group, but it should show products of forest. That is one correction I failed to make. That sheet should show products of forest. Sheets 7 to 20 cover manufactures and miscellaneous. All of these carload rates—I would say [fol. 1704] that they cover about 90 per cent of the moving traffic in the South, as to class traffic—are related to the going first class rates.

Section 3-D is prepared to show the situation with respect to commodity rates. In other words, it is our position here that the pattern of the rate structure in Official territory and the South is identical today; wherever the rates in the North are on a percentage basis they are likewise on a percentage basis in the South. When they are on a commodity basis, they are on a commodity basis in the South. I prepared these exhibits to prove that. There is the condition apparent in one or two important commodities as shown in Section 3-D. I have tried to cover all of the important moving traffic in sections 3-B, 3-C and 3-D. I have not included in those sections such commodities as bauxite ore, iron ore, coal, or commodities that would probably have no bearing on this case.

There is a movement of coal interterritorially; but as to bauxite or iron ore, there is not. I have also eliminated grain because most of our grain moves on transit and there is no way in the world to test the level of the grain rates. But by and large this section of my exhibit certainly portrays a picture of the moving traffic in the South and in the North, and shows that the pattern is identical today. There is no such thing as low commodity rates in the South [fol. 1705] on raw materials, where they move in the North on class rates and they move in the South on commodity rates. That is a misnomer as far as that is concerned.

There is in these studies rates, for instance, on plastic. That is an important commodity in the South and the North. We have plants in the South today. In the South it moves on a percentage basis and in the North it moves on a commodity basis As to fresh meats, the situation is exactly reversed. In the North fresh meats move on commodity rates and in the South they move on the column basis, except for certain truck competitive rates that are in effect. There is one other important commodity that moves in the North on a class basis and in the South on a commodity basis, and that is lumber. That is true probably of petroleum products, but with those few exceptions, the pattern is the same.

Section 4 refers or relates to the Jensen proposals. I am here undertaking in this section to criticize, if you will permit that word being used, what Mr. Jensen proposed in this proceeding. Mr. Jensen referred throughout his exhibit No. 7 which he introduced at the St. Louis hearing, apparently, to class traffic or class rate traffic or class rates, and it certainly has been confusing to many of us in attempting to determine or make a little interpretation of that or those terms. Of course, I have approached this subject on the basis that perhaps he referred to all traffic, [fol. 1706] that is, traffic classified in the classification or otherwise, so you may understand why I deal with it from that angle.

Mr. Jensen apparently tried to create an entirely new structure. His proposition in the beginning can best be summed up as follows: one, create a synchronized first class rate structure by taking a base 100 rate (CFA territory) and relating the other rate territories to the Index 100 rate territory by an arbitrary percentage amount,

which he assumes to represent the difference in the rate level as a whole in each of the other territories as related to the Base 100 Rate Territory. Two: place practically all traffic on a definite relationship to the Index 100 rates by uniform classification ratings stated in definite percentages of such Index 100 rates. With that conception of Mr. Jensen's proposal, I will just refer briefly to some of the sheets that follow.

Section 4-A contains 8 sheets and shows comparisons of ratings in Southern classification and exceptions thereto. Sheet 1 merely reproduces and compares ratings in Consolidated Classification No. 14. On sheet 2 I have broken down the same ratings that are carried on sheet 1 and compared the Southern and Official territory ratings as to rate levels. In other words, on class 1, for instance, the less than carload ratings numbered 2,074 in the South in carload 202. I have broken those down in Official terri- [fol. 1707] tory as to the ratings in that territory and show what the rate levels would be under the governing classification ratings. That is carried out all the way through to class 12.

Now, on sheet 3 I have compared in a similar way, except I have weighted the averages of the fifth and sixth class carload ratings in Official territory with the ratings on those same classes of traffic, or I may say, the going rates in Southern territory on the same class of traffic. I have selected fifth and sixth class because it is generally speaking fifth and sixth class, so far as classification is concerned, that moves the greater part of the traffic, carload traffic, in Official territory. Those ratings were selected because they are representative of the Official territory carload traffic, and we show what the actual rates are in the South, whether exceptions, classification or otherwise, and show what the relationship is between the two rate levels. This same sort of comparison is carried out on sheet 4 as to the exceptions carried in the Southern exceptions to the classification that were in effect as to carload traffic and less than carload traffic prior to September 1, 1940.

Additionally on sheet 6 I show what those comparisons are as to the less than carload traffic on which the rates were substantially reduced on September 1, 1940, and about which so much has been said here already. I have broken

that down. There are actually 2,960 ratings, less than [fol. 1708] carload, that were reduced, and it is not correct to say that those reductions caused the rates in the South on this class of traffic to be lower than in the North. It is very obvious that an examination of this showing will confirm that statement. In other words, the major number of items reduced were in the third class column, which is numbered 18991. There you will find that all but about 450, roughly 450, are still higher in the North than they are in the South—I mean, still higher in the South than they are in the North.

Sheet 7 makes similar comparisons with certain exceptions that are carried in the Southern class rate tariffs rather than in the exceptions sheet. Sheet 1 of section 4-B reproduces the territorial boundaries of Mr. Jensen's proposal. On sheets 2 to 10 inclusive I have shown the result of Mr. Jensen's proposal between Official and Southern territory both as to the 110 per cent zone and the 120 per cent zone in the South. Here again you will find that the long haul rates are relatively high and the short haul rates are relatively low, which causes the same sort of incongruities that are now apparent in the interterritorial rate structure, although I am frank to say it somewhat mitigates those incongruities. Those I think will be shown further on, on sheet 12.

I skipped the map on sheet 11. The map was drawn to merely indicate the line between the territories suggested [fol. 1709] by Mr. Jensen, and it also shows the points which were used in breaking the rates between the different percentage zones in constructing the rates shown on the previous sheets. On sheets, 13, 14, 15, 16 and 17, I have by charts compared various laminated scales that the Commission has prescribed with Mr. Jensen's laminated proposal and also have shown the Southern K-2 first class scale and the appendix E scale prescribed in the Eastern Class Rate case. There, Mr. Commissioner, you will find a comparison—or rather, let me state this: here again I would like to call your attention particularly to sheet 17, which charts these scales between Washington and New Orleans, and ask you to take very careful cognizance of that picture, particularly the progression of Mr. Jensen's scale for the longer distances as compared with the progression of the appendix E scale, and for that matter, with the other scales shown on that chart.

Sheet 18 is rather complicated. I will rather have to admit that. Unless someone wants to ask me questions about its clarification, I do not think I will go into detail in explaining it except to say that I have here selected three granite producing points—the three to which I heretofore referred—Barre, Vermont, Salisbury, North Carolina, and Elberton, Georgia, to show what would happen to the rates from those points on stone or on granite should Mr. Jensen's proposal be adopted, in the event we should [fol. 1710] use the classification basis against the Jensen first class rates. It also shows under the full classification basis, for instance, from the South we would have a mile for mile parity with Official territory on dressed stone, whereas, the Commission came along in the Consolidated Stone Cases and disrupted that parity by reducing the level but increasing the difference between Southern and Official territory rates. This exhibit shows what those differences are under each of the prescriptions. Then the Commission came along in the Southern Governors' Case and gave us parity again. Now Mr. Jensen comes along and he wants to disrupt it again.

A similar showing is made with respect to rates on wine, which I show on sheet 19. In other words, today the rates from Atlanta to Chicago on wine which we ship in carload quantities are 84 cents and from New York, 73 cents. We have a difference of 11 cents in favor of New York. Mr. Jensen does not propose to change that. Under the classification basis we would have 24 cents, but if the appendix E scale applied and the same basis on wine was observed from Atlanta as from New York, the rate would still be 84 cents, but the New York rate would become 94 cents or 10 cents higher. If we used Mr. Jensen's formula, there would be only 1 cent difference between the two rates in the event you used the classification basis. I have shown the same situation at Scranton, Pennsylvania. [fol. 1711] because there is quite a large movement of wines into Scranton, Pennsylvania, which the Southern producer has not been able to participate in because of the fact he has nothing but fourth class rates today and in fact a rate of $1.21 today from Atlanta, Georgia, which is only 7 cents less than the rate from California to Scranton, the rate being $1.28.

Now, section 4-C, which consists of 7 sheets, has been prepared to show that in the South, truck competition is

just as apparent as in Official territory, and maybe more so. I have merely shown here the very substantial reductions that the Southern railroads have made on important classes of traffic in Southern territory.

Section 5 relates to Mr. Jensen's proposed Index 100 first class rates. Sheet 1 compares the Jensen proposed first class Index 100 rates and their progression with the appendix E Docket 15879 scale and the K-2 Docket 13494 scale. Sheet 2 makes a comparison of Mr. Jensen's proposed Index 100 rates for the long versus the short hauls. It shows that his scale, of course, does not lend itself readily to long haul traffic. In other words, the relationship between the short haul rates and the long haul rates are much greater than either under the K-2 scale or the appendix E scale. Certainly we would interpose serious objection to any change unless it is a betterment in the relationship between the long and short haul [fol. 1712] rates. Sheet 3 is a graphic comparison of the progression of Mr. Jensen's proposed Index 100 rates with the appendix E scale and further shows the very rapid rise in the Jensen proposal because of their straight line progression. May I say, Mr. Chairman, that in my opinion Mr. Jensen's proposal is impractical, inconsistent, unsound and unworkable.

By Mr. Wagner:

Q. Have you completed your discussion of your exhibit, Mr. Hart?

A. Yes.

Q. Would you say that the territorial movement of carload freight on May 27, 1942, could be considered representative of the normal movement throughout the year?

Mr. McCollester: Pardon me, Mr. Wagner. May I hear the question again?

Chairman Aitchison: Read the question.

(Question read.)

A. No, for two reasons: One, in May there is relatively no movement of cotton, tobacco and grain and a lessening of the movement of coal; and in May, 1942, there had begun a large movement of petroleum products by rail to meet the eastern shortage; and, two, the movement of war

materials and lease-lend products was large in May and even larger, perhaps, than the first quarter of this year. If we eliminate Sundays and holidays during the first quarter of this year, we find that on basis of Statement [fol. 1713] Q-1 figures, the movement of manufactures and miscellaneous items was between 15 per cent and 20 per cent greater on May 27th than the per day movement of these items during the first quarter of this year.

By Mr. Wagner:

Q. Do you consider the list of commodities set forth in the notice of September 25, 1940, a proper segregation of commodities?

A. I certainly do not.

Q. Would you explain why?

A. While cottonseed, cottonseed meal and salt—Items 100, 101, and 380—move on percentages of first class fixed by the Commission, they are not technically in this proceeding. If they are to be treated as commodity-rated traffic, then many items that are now in the class rate traffic category can be transferred into the commodity group. For example, in the September 25th, 1940, segregation, packinghouse products would not be in the commodity rate list. However, packinghouse products move on Commission-prescribed commodity rates within and to the Southwest, and on percentage columns east of the Mississippi River. Fresh meats nowhere move on the classification basis, and yet under the division embraced by the September 25th, 1940, grouping, they are included in class rate traffic. Fruits and vegetables do not move on classification rates, and yet——

Chairman Aitchison: What is that?

[fol. 1714] The Witness: Fruits and vegetables do not move on classification rates.

Chairman Aitchison: Lots of them move in the Western District on Class C.

The Witness: Of course, Mr. Chairman, I know that in certain instances from the west they do move on class C, but I had more in mind, of course, rates from the South in which case you made a very strenuous separate opinion on account of those rates being related to the first class rates. Now, they all move east of the river on column rates and to a great extent they move on column rates

from the Southwest. I will modify my statement to that effect.

Chairman Aitchison: You make your own statement.

The Witness: I am not sure that the September 25, 1940, list was intended to draw the line between commodity rated traffic and class rated traffic. After all, that is the point, Mr. Chairman.

By Chairman Aitchison:

Q. You recognize that the exhibit in question is based upon previous notice of the segregation of the Commission, or rather, the Division in its call for a traffic study?

A. Well, yes.

Q. Was there any objection made to that at the time?

A. No. I do not think there was. Certainly we did not give it very serious thought.

[fol. 1715] Q. Well, if we had gone on with the original study and had the carriers get that data together, we then would have found you exactly where you are now, criticizing the statement of May 27th, is that correct?

A. Perhaps so.

Mr. McCollester: Will you state for the record what the significance is of these two dates that have been referred to?

Chairman Aitchison: May 27th was the date taken for the study made by the Director of Defense Transportation, one day. The other date was the date in the order of Division 2 for a study to be made by the respondents in this proceeding, which subsequently was vacated. Am I correct in that?

The Witness: That is correct.

Mr. Wagner: There were two tentative orders issued and the notice, I believe.

Chairman Aitchison: Two tentative orders?

Mr. Wagner: Yes.

Mr. McCollester: Thank you.

Chairman Aitchison: They were not made.

Mr. Wagner: We offer in evidence Exhibits 88 to 90 both inclusive, if the Chairman please.

Chairman Aitchison: Is there any objection besides the one made by Mr. McCollester, which was sustained in part?

[fol. 1716] Mr. McCollester: Mr. Chairman, the only other objection that I make is to such portions of Exhibit No.

88 as purport to show rates, and particularly interterritorial rates other than the class rates involved in this proceeding.

Chairman Aitchison: Because they do involve rates which are not embraced in the proceeding?

Mr. McCollester: I do not object to their being shown if they have any relevancy at all, but I do think unless some explanation is made, a showing of such ratings as are set forth, for example, in Section 3-B, are immaterial to the present proceeding.

Chairman Aitchison: The objection is overruled. The exhibits are received in evidence with the exception, as previously noted, of certain portions of Exhibit No. 90.

(Exhibits Nos. 88, 89 and 90, Witness Hart, received in evidence.)

Chairman Aitchison: We will take a short recess.

(A short recess was taken.)

Chairman Aitchison: We will resume. You may cross-examine.

Cross-examination.

By Mr. Gwathmey:

Q. Mr. Hart, I may not have fully caught your opening remarks, but did you say for whom you are appearing and testifying in this case?

Chairman Aitchison: Was that not stated by counsel? [fol. 1717] Mr. Gwathmey: I beg your pardon, sir?

Chairman Aitchison: That was stated, I believe, by counsel, and not the witness.

Mr. Gwathmey: I did not hear anybody say it, sir.

Chairman Aitchison: Ask counsel.

Mr. Norman: You heard counsel for the Southern Governors present him, did you not?

Mr. Wagner: He is a witness on behalf of the Southern Governors' Freight Rate Conference.

By Mr. Gwathmey:

Q. Are you specifically authorized to testify on behalf of any industry or group of industries in the South?

A. I have not any specific authorization from any group, but speaking for my own organization, which is the oldest and largest of its kind in the South, I think we represent more diversified manufacturers than any city in the South, and I am certainly speaking for that interest.

Chairman Aitchison: He is a Commission witness when he goes on the stand here and takes the oath. He is here to tell the truth for everybody and for all purposes. It is for counsel to tell on whose behalf he is testifying.

By Mr. Gwathmey:

Q. Is it not true, Mr. Hart, that there is a substantial group of industries in the South who have particularly directed that none of your remarks be considered as made on their behalf?

[fol. 1718] A. No, sir. I do not know of anyone who has directed me not to make remarks on their behalf. There are a number of so-called heavy commodity shippers in the South who are satisfied with their rates and as I understand it they are pretty well satisfied. They have either parity or something near parity and they are not interested. That is the only group I know anything about. I do know that commercial interests of Charlotte, Nashville, Chattanooga, Memphis, and every commercial organization in the South supports this presentation.

Q. On page 42 of your prepared statement which has been marked as Exhibit No. 90, the following statement occurs: "Speaking for most of Southern industry, we want it clearly understood", and so on and so forth. I want to know your authority for the statement that you are speaking for most of Southern industry.

A. I had corrected that sentence, and I thought it had been corrected by the typist. I changed it to read, "Speaking for a large portion of Southern industry". If you will permit that correction to be made, I think that fairly states my position.

Q. Up to the present time you have mentioned only the particular organization with which you are connected. Do you refer to the Atlanta Freight Bureau?

A. I do.

[fol. 1719] Q. Is the membership of that organization located entirely in Atlanta or in territory adjacent to Atlanta?

A. Well, it includes, for instance, all the marble industry and granite industry in Georgia. We have some outside industries that have their main offices in Atlanta. For instance, the granite industry in the South is pretty well centered in Atlanta. Then, for instance, one of the members has an office in Salisbury, and some in Alabama and some in Tennessee. To that extent I represent what you might term outside interests.

Q. Is there any group or organization of shippers for whom you are speaking in this case other than the Atlanta Ffeight Bureau?

A. I think so. It seems to me counsel can answer that question. I certainly thought I was speaking for these other commercial groups. They were here as witnesses, and they are here now, most of them.

Q. Your counsel stated you are appearing for the Southern Governors Conference.

Chairman Aitchison: He has appeared as a witness, Mr. Gwathmey. Do not pursue that any further.

Mr. Gwathmey: Very well, sir.

Chairman Aitchison: When he gets on the stand here and takes the oath, it is his duty to tell all the truth.

Mr. Gwathmey: Mr. Chairman, if you will indulge me, [fol. 1720] when the witness makes the statement that he is speaking for a large part of Southern industry, I respectfully submit I am entitled to ask him what principal he is speaking for.

The Witness: I think I have answered your question very fairly. I know there are certain industries down there who are not in sympathy with it for particular reasons. I do not think the Commission here is interested in those reasons. I know what they are. There are those groups—for instance, the iron and steel group in Birmingham is a big industry. I admit that. They are not interested in this thing. I am not speaking for such an industry as that. I have a steel mill in Atlanta, and I am speaking for that steel mill.

Mr. Gwathmey: Very well, sir. Thank you.

Chairman Aitchison: Is that all, Mr. Gwathmey?

Mr. Gwathmey: Yes.

Chairman Aitchison: Is there any further cross examination?

Mr. Porter: I have just one or two points, Mr. Hart, if you please.

Chairman Aitchison: Mr. Porter.

By Mr. Porter:

Q. Will you refer to sheet 2 of section 2.

A. Yes.

Q. On that sheet you show that class 6 of Southern classification is 199.7 per cent of class 6 of Official classification. [fol. 1721] Are those corresponding classes?

A. They are stated as corresponding classes in the classification, but their percentage relationship, as you will notice below, is quite different and that is what causes the difference. In other words, if you had a commodity rated class 6 in Official territory and 6 in the South, the difference would be 199 per cent.

Q. But the correspondence is one, practically speaking, in name only, is it not, only in class 6?

A. I may say that is one of the incongruities of the present rate structure.

Q. Because they call class 6 something in Southern that they do not call it in Official?

A. We think we ought to have unification of classification.

Mr. Porter: That is not what I asked you, Mr. Hart.

By Mr. Porter:

Q. Is it not true that this 199.7 per cent figure is significant only to show that class 6 in Southern is 199.7 per cent——

A. That is all I——

Q. —of a lower class in Official?

A. That is all I prepared it for.

Q. As a matter of fact, commodities rated class 6 in Southern or class 6 in Official are rated class 5?

A. You can find it over here in the further exhibit I have filed.

[fol. 1722] Q. That is true, is it not?

A. Yes.

Q. You have studied that and you know it?

A. Of course I do. What is the question about it?

Q. I beg your pardon?

A. What is the question about it? I do not get your point.

Q. The question I had in mind was the significance of this 199.7.

A. I merely put it down there to show——

Q. It occurs to me that you are trying to indicate that there is a relationship of 199.7 per cent——

A. No.

Q. —Southern to Official.

A. No. The only purpose I filed that was to show the difference in a stated class in one territory as compared with the other translated into a rate level.

Q. Translated into a rate level that is common on two commodities?

A. Yes.

Q. That happen to be rated class 6 in each?

A. I am not claiming there is one or one hundred that are rated the same. The exhibit further on does show how many commodities in the South are rated sixth class and how many in the North.

Q. It shows how many are rated sixth in both?

[fol. 1723] A. That is right. Those commodities would be a difference of 199 per cent.

Q. Are there any that are rated that way?

A. How is that?

Q. Are there any that are rated that way?

A. I think there are a few, but they are inconsequential.

Q. Yes.

A. They do not represent any important moving traffic, of course.

Q. All right.

A. I did not file the exhibit for that purpose.

Q. Refer, please, to sheet 26 of Section 3-D.

A. Yes, sir.

Q. May I ask where you get the rates shown as representing Official levels?

A. I thought the exhibit showed it. I have the underlying data. It is not in here, of course. I did not incorporate it in this exhibit. It is a little voluminous. I will say that it represents the average of the meat rates in Central Freight Association territory and from Central Freight Association territory to Trunk Line territory. In other words, I took the commodity adjustment as it is today out of Chicago and Indianapolis and related it to first class and got an average.

Q. Can you state approximately how many rates you used?

[fol. 1724] A. Well, I used perhaps 100.

Q. Is that the same method you have pursued with respect to other commodities?

A. No.

Q. Where you do not have a mileage scale?

A. No. I did not do that because all of the other exhibits are prepared on a point to point basis. That is the only one you will find. I just happened to have this comparison in the form in which it appears here, and I did not want to change it. I mean, it was a matter of expediency more than anything else. This exhibit does reflect the average level of rates.

Q. Those are rates that you picked?

A. I did not hand-pick them. I just took——

Q. I did not mean to imply you hand-picked them, but they are rates you happened to take?

A. Yes.

[fol. 1725] Q. You then compared those rates to first class and you got a constant percentage?

A. I did, and made a scale out of it.

Q. You got an average percentage, and you made a scale, and that is the scale you set up here?

A. The purpose here is—it does not have any purpose from the standpoint of comparing Official levels with Southern levels.

Q. Oh.

A. I stated in my direct that the purpose of this section was to show that the rate pattern was the same, for instance, fresh meat in the North on a commodity basis and in the South on a percentage basis—or I guess I said it was just the reverse, and except as to those few commodities, the pattern is the same.

Q. Yes.

A. I have not purported to show any rate, and I do not claim that any rate is reasonable or anything else. I just made the comparison to show that the commodity was on a certain basis in Official territory and in the South.

Mr. Porter: There is just one other point I am not sure was made clear on the record, although perhaps it was.

By Mr. Porter:

Q. The Chairman raised a question about the apparent humps in the various class scales as shown on graphs such as represented by sheet 15 of section 2. Those humps are [fol. 1726] caused by the fact that there is no gradation as to mileage in the various blocks of the graph or divisions of the graph rather than any irregularity in the scale, is that not correct?

A. In fact, the scale was not used from the East and that is what causes those conditions. Later on it shows just what that progression is from the East.

Q. Yes.

A. On first class.

Q. Yes.

A. It is caused by the prescription of a key rate structure from the East and as you get down into Washington, of course it is on the lower end of that group, the Baltimore group. It is coupled up with Baltimore. That causes this incongruity I am referring to on the chart.

Q. Is it not also caused or accentuated by the fact that two divisions will, between some points, represent 50 miles, and between others they may represent 75 or nearly 100?

A. Yes, but I was not trying to chart it from that standpoint.

Q. I knew you were not, but I did not think the record was perfectly clear. The incongruities are not established, are they, by the fact that these lines have an irregular trend?

A. No, sir. I was attempting to show the incongruities that flow out of a key adjustment of this character.

Mr. Porter: That is all, thank you.

[fol. 1727] Chairman Aitchison: That is illustrated, I take it, by looking at LaGrange and Montgomery which is 101 miles, and is 20 spaces on the chart, while from Montgomery to Mobile, 178 miles is also 20 spaces.

The Witness: Well, Mr. Chairman, I tried to explain that I was not charting this from a mathematical standpoint. I merely wanted to show on this chart what the first class rates were, for instance, at Spartanburg, Atlanta and LaGrange. I merely took the chart and set it up that way because I thought that would be more effective than putting it down on a piece of paper. A man can see it better. My point is that between points on the Southern Railway's

main line between Charlotte and Spartanburg, from that point on down to a point below LaGrange, the first class rates this Commission prescribed are higher than the full K-2 scale. That is all I was trying to show. I was not charting it from a draftsman's standpoint.

Chairman Aitchison: Did you say higher?

The Witness: Yes. It is higher. The lower line is the K-2 scale.

Chairman Aitchison: On sheet 15?

The Witness: Yes. If you will trace that line from about Spartanburg, just north of Spartanburg all the way down below LaGrange, you will find the K-2 scale is lower than the first class rates.

[fol. 1728] Chairman Aitchison: Oh, yes.

The Witness: That is what I am complaining about. I say on the Southern Railway's System from Washington, D. C. we certainly should not be higher than the full K-2 scale. That comes about by the inconsistencies that flow out of a key point adjustment.

Chairman Aitchison: Is there any further cross-examination?

Mr. McCollester: I have a few questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Hart, when Witness Edwards was on the stand he stated that his exhibits 83 and 84 were prepared by you and that I should ask you about them. You did prepare them, did you not?

A. Yes. I supervised their preparation.

Q. You know what they are? They purport——

A. I do not know them by number. I know what they are.

Q. They purport to relate to the rates on furniture?

A. Yes. I can answer questions about them.

Q. Is it not a fact that furniture moves on exceptions to the classification and is not involved, or the rates on it are not involved in this proceeding as you understand it?

A. Not altogether, no, sir.

Q. Well, is it not true——

A. Not interterritorially.

[fol. 1729] Q. Does it not move on exceptions, interterritorially?

A. Not altogether, nor does it move altogether in the South on exceptions. Predominantly it does, but not altogether.

Q. Yes.

A. Take bed rails, for instance, rated third class in the classification, moving on third class.

Q. Will you state the rates on exhibits 83 and 84 which are involved in this proceeding?

A. Well, I would say the rates involved there are those that move on the classification basis.

Q. Can you tell us which ones those are?

A. Interterritorially I think they would be—well, I do not know. I would have to get the list and check them. I do know that, and anyone knows who knows anything about furniture rates, that is a fact, that there are certain furniture items that move on the classification basis.

Q. But generally furniture moves on exceptions, does it not?

A. Yes. Predominantly it moves on exceptions.

Q. Now, Mr. Hart, will you state for the record how long you have been engaged for the purpose of this case in preparing the rate studies that you have prssented here?

A. Well, I do not know that it has anything to do with it, but if you would like the information I would be glad to supply it.

Q. I have asked you the question.

[fol. 1730] A. Shall I answer the question?

Chairman Aitchison: Is there any reason why you should not?

Mr. Norman: I was just going to say, I do not know any reason why he should, but I do not know any reason why he should not.

The Witness: I do not know that that has anything to do with it, but——

Chairman Aitchison: I think it does, if the question is how long you have been working on this. Certainly whether it is dashed off in 15 minutes or 15 years has something to do with its thoroughness.

The Witness: Well, I certainly have not been working on it 15 years, but I have not been working on it 15 months, either. Just making a rough guess without looking at my records, I would say five or six weeks, nights, days and Sundays.

By Mr. McCollester:

Q. Doing practically nothing else in that time, I take it?

A. I had to carry on my regular work, as far as I am personally concerned.

Q. You had a staff working on it too?

A. Yes.

Q. Bearing in mind that the different members of the Southern Governors' Committee on whose behalf you are [fol. 1731] called as a witness here have stated that what the Southern Governors' Committee seeks is a uniform level of rates east of the Mississippi, can you point out in your exhibit anywhere, or any part of the exhibit, where as the basis of the study you have put on the rate situation, you have indicated to the Commission or to us how the basis of rates for the entire section of the country east of the Mississippi River is to be arrived at?

A. No. I have not made any definite proposal in these exhibits, but I have shown the inconsistencies and the incongruities that are now apparent in our rate structure, and should be corrected. They should not have been put there in the beginning. I do not know whether my counsel will agree with this or not, but as far as I am personally concerned, in my own organization, I would say that from the knowledge I have of the rate levels in the two territories, probably the Appendix E scale today as it is with its gradation, its measure, with a unification of the classification would be satisfactory.

Q. In other words, your five weeks' study indicates to you that the solution of the problem of which the Southern Governors complain is the application of the Appendix E scale throughout that part of the United States east of the Mississippi River including the state of Maine and the state of Florida, is that correct?

[fol. 1732] A. I realize, of course, we could not operate a common scale of that character without some readjustment in the classification and the exceptions.

Q. Have you given any consideration to the effect which that would have on the revenues of the railroads?

A. I certainly have.

Q. What would the result be?

A. I have in my own mind pretty well concluded that it would hurt the Southern carriers.

Q. How did you arrive at that conclusion?

A. Well, just from personal knowledge.

Q. Just from a general guess?

A. Informed knowledge, I will say.

Q. A general guess?

A. No. It is not a guess.

Q. How would it affect the New England carriers?

A. Well, perhaps it would not. I mean, there would be some difference. Of course, the New England lines today participate in the common level, for instance, from Barre on stone, and they are less than the Appendix E basis. I do not know without a test whether the New England lines would be hurt at all. I do not know what the bulk of their traffic is, but I know a good deal of it is minerals and I know what the level is on those minerals because they compete with our minerals. I do not believe it would hurt them very much.

[fol. 1733] Q. *Is* minerals the high grade manufactured articles which the Southern states are so anxious to develop in their territory?

A. I thought you were talking about Maine, and just what you mentioned. Of course, when you get down into the lower end of New England, that is a different story. You asked me something about Maine or somewhere up there in that neck of woods.

Q. How about Florida? How would the Appendix E scale affect the rates to Florida?

A. I know what the railroads propose to do in Florida with their class rates in order to foster the freight forwarders. If that is what they have in mind, this would be higher than what they propose themselves.

Q. As compared with the present rates?

A. I would have to have a traffic test. I cannot express an opinion.

Q. You will agree with me, will you not, that we could not tell how that rate basis would work out, or any rate basis would work out, without a traffic test?

A. Before I would hurt the Southern carriers, or New England carriers for that matter, I would be willing to see a higher scale made effective. All I want is uniformity.

Mr. McCollester: That is all, thank you.

The Witness: I am not wedded to the Appendix E scale. [fol. 1734] I thought that was the best thing I had looked at.

Mr. McCollester: That is all.

Chairman Aitchison: Are there any other questions?
Mr. A. L. Reed: I have one question, please.
Chairman Aitchison: Mr. A. L. Reed.

By Mr. A. L. Reed:

Q. Refer, please, Mr. Hart, to section 3-B, sheet 1, of your exhibit No. 88.
A. I did not catch the page to which you referred.
Q. Sheet 1, section 3-B.
A. All right.
Q. The Official territory class relationships are shown at the bottom of the page. Are you not in error in showing fifth class as 50 per cent?
A. Well, if it shows 50 per cent, it is wrong.
Q. Look at it.
A. Apparently that whole line is wrong, Mr. Reed. I am sorry. I did not catch it. Fifth class should be 35 per cent. Sixth class should be 27½. There should not be any seventh class. I do not know how that escaped me.
Q. Fourth class should be 50 per cent?
A. Yes. Fourth class is 50 and rule 26 is 55. Someone got a hold of this and just did not know what they were doing. I do not know why I did not catch it. I am sorry. Everyone knows what those relationships are. I am sorry I did not catch it.
[fol. 1735] Q. Are any of your calculations in error?
A. No, sir. The calculations are made correctly. This is merely a typographical error of some sort.

Mr. A. L. Reed: Thank you.
Chairman Aitchison: Mr. Ribe.

By Mr. Ribe:

Q. Mr. Hart, are all of the rates in your exhibit current rates except for Ex Parte 148?
A. They are. There are certain exceptions, Mr. Ribe, in what I might term the commodity section, which are shown not to include the Ex Parte 123 increases.
Q. How can we distinguish between the rates that are not current and those that are current?
A. I was not trying to compare rates in those sections. We are not dealing here with the rates on those commodities at all. It was merely to show the pattern of the rates. I

just happened to take some comparisons that I already had worked up. I saw no reason in the world to increase them under Ex Parte 123, as long as the exhibit indicated it was not on there. I do not care whether they are two dollars or three dollars, as far as the rates are concerned. I was merely attempting to show the pattern of the rates.

Q. Well, where the rates which you have in your exhibit are not the current rates, have you indicated that you did not——

A. The exhibit on the face of it indicates that, unless it is otherwise shown; on the title page, that is.

[fol. 1736] Q. I will ask you to turn to sheet 13 of section 3-D.

A. What sheet?

Q. 13.

A. All right.

Q. The Southern class rates you show there are not the Southern first class rates you show in other sections of your exhibit, are they?

A. Well, Mr. Ribe, I explained to you that if I had increased—the heading of the exhibit shows that. I had this exhibit worked up. I was under compulsion, so to speak, to get these things out. So far as the comparison is concerned, if you wanted to find out the relationship of first class, I could increase both of them and you would get the same answer, so what difference does it make?

Q. Turn to sheet 8, please, sir, of the same section.

A. All right.

Q. With respect to the two columns headed "Ohio" and "Kickapoo Scale"—do they include the 123 increase?

A. No. They show up there the date they were made. It was merely a comparison of the short haul rates just as the exhibit shows between certain scales prescribed by the Commission on road aggregates. The mere fact they were not increased does not change their relationship one iota. For the purpose of this exhibit they do not have to be increased. We are not contesting rates on sand and gravel here at all.

[fol. 1737] Q. In the second column on sheet 8 you show some rates which I am unable to identify. Tell us what those rates are.

A. Now, Mr. Ribe, I am not going to discuss the sand and gravel rates. I told you the purpose of this exhibit was

merely to show that there were commodity rates on sand and gravel in the South and commodity rates in the North. That is all it is for. You cannot try your sand and gravel case here.

Q. Is not the second column on sheet 8 supposed to be the Southern scale on these road aggregates plus the 123 increase?

A. It says so.

Q. Is the 123 increase now in the Southern rates?

A. Well, I don't think it is material whether they are or not.

Q. It is a fact that they are not in there, is it not?

A. I do not know. I do not want to answer you because I do not care.

Chairman Aitchison: Well, now, whether you care or not is not the question, Mr. Hart, and whether you think it is material or not makes no difference. As long as the question stands, you answer it.

The Witness: I will, if the Commission wants the information, and believes it will be helpful. I just do not see why Mr. Ribe is trying to find out about the rates on sand and gravel any more than any other commodity.

Chairman Aitchison: The question has been put in a [fol. 1738] proper way, and you should try to answer it unless your counsel objects.

The Witness: What is it you want me to answer?

By Mr. Ribe:

Q. If it is not a fact that the Ex Parte 123 increases have been entirely removed from the Southern rates on road aggregates?

A. Yes.

Q. Now, to find the current rates with the exception of 148, can we refer to the first column of sheet 8 of your exhibit?

A. No, sir. You cannot find anything about current rates in this exhibit. It was not prepared for that purpose.

Q. Look at the heading there, Mr. Hart, and see if you are not wrong.

A. All right. It shows what the level was and what it is.

Q. Is not the date that you show in the heading of the first column the date before the Ex Parte 148 increases?

A. Yes. It says that. It is perfectly plain on the exhibit. I have shown the 17517 scale without any increase, and then in the next column I have plussed it. That is all.

Q. I am trying to find out what is the current scale in the South.

A. It is the first scale you see there, if that is what you want to know.

Q. Are sheets 7 and 8 of section 3-D duplicates of exhibits you recently filed in a 13th section case, I. C. C. Docket [fol. 1739] 28791?

A. Practically, yes.

Q. Was that a case heard in the last several months?

A. Yes.

Q. In that case did you testify that the Southern rate level on road aggregates was no higher than the Northern rate level?

A. For short hauls, I did, and that is true. I proved it in that case.

Q. I will ask you to refer to the first column of sheet 7 and tell us if that is the current Southern scale.

A. The exhibit speaks for itself, Mr. Ribe. I cannot tell you. It is right there before you. You can find it.

Q. Mr. Hart, you know that is not the current Southern scale, do you not?

Mr. Norman: What are you talking about, what commodity?

Mr. Ribe: Sand and gravel, silica and road aggregate.

The Witness: It does not look like it, just to look at it.

By Mr. Ribe:

Q. Well, it is not, if you compare the first column on sheet 8 to the first column on sheet 7, is it?

A. The only trouble is, Mr. Ribe, there are two different dates. You understand that one of those dates might have involved Ex Parte 115. I cannot just answer those questions about these things unless I get my work sheets. I think the one on sheet 7 included the Ex Parte 115 increases, [fol. 1740] and the other one does not. I do not know unless I check it. As I say, I did not come here to try a sand and gravel case. I do not see why I should answer these questions.

Q. Mr. Hart, are you willing to reissue sheets 7 and 8 and bring them down to date and show the current situation with the exception of Ex Parte 148?

A. If the Commission wishes that in this case, I have no objection whatever to doing it, or you can do it. I am perfectly willing to let you put it in here. I did not submit the exhibit to compare any particular rate level at all.

Chairman Aitchison: Mr. Ribe is pointing out what is a possible error in your exhibit.

The Witness: It is not, I do not think, Mr. Chairman, an error.

Chairman Aitchison: That is entirely up to you to say. If you think it is all right, you can say you think it is all right.

The Witness: I think the exhibits are all right. The only thing he is asking me now is to show what the current situation is. I have no objection to showing that.

Chairman Aitchison: Your heading on sheet 8 certainly says "Present rate levels".

The Witness: Yes, and that exhibit is correct. That exhibit is technically correct. In other words, the rates from the first column on out—I mean, the second column on [fol. 1741] out are the current rates. Of course, it may be that in reproducing this exhibit it is not made entirely clear, but I will be glad to clear it up for Mr. Ribe if he wants it done. In other words, I will agree here on the record that the Southern carriers have removed the Ex Parte 123 increase off the Southern scale and that scale is the first scale shown on sheet 7. Will that satisfy your question? That is the current scale in the South up to 300 miles.

By Mr. Ribe:

Q. Do you not mean on sheet 8?

A. Yes. Sheet 8. That is correct.

Q. Yes.

A. Sheet 8. For 360 miles, I will say. That is the single-line scale.

Q. Now, Mr. Hart, turn to sheet 14 of section 3-D of the same exhibit.

A. All right.

Q. Are you not in error in indicating that the scale of rates shown in the second rate column is the Official territory scale on coke?

A. No. I do not think so.

Q. Didn't you take the C. F. A. scale prescribed in I. & S. Docket 3511 and here designate it as the Official territory scale.

A. Well, yes. I think so. For the purpose I used it, I think it was all right,

[fol. 1742] Q. What was the purpose of this exhibit?

A. The purpose of these exhibits and all of this section, Mr. Ribe, is to show that in the North they have commodity rates on coke and in the South they have commodity rates on coke not related to the first class rates. That is the only purpose.

Q. You have not shown the Seaboard scale here that applies over to Eastern Trunk Line?

A. I knew they have a little higher scale in New England, and if I was dealing with the rate levels on coke, I would have had all of that in there.

Q. So in connection with that coke exhibit you are not dealing with rate levels?

A. No, sir.

Q. Thank you.

A. All I wanted to prove by it is that they have commodity rates in the South on coke and commodity rates in the North. It just happened that this exhibit had been worked out and I just put it in there to show that.

Q. Turn to sheet 19 of the same section, please, Mr. Hart.

A. Yes.

Q. You have a column there headed "Southern Compromise Scale".

A. Yes.

Q. Did you participate in numerous conferences with the Southern railroads that led up to that scale?

[fol. 1743] A. I did.

Q. Have you not in your exhibit, or rather on sheet 19, shown that the Southern level and the Official territory level on lumber are approximately the same?

A. Well, they average about the same. The Northern level which has a percentage of first class gradation, is entirely different from the commodity scale in the South. It produces different percentage relationships in different blocks. However, I did not introduce the exhibit to compare the levels at all.

Q. Mr. Hart, is it not a fact that this Southern compromise scale as applied to the movements which were brought

out at our conferences, is probably 15 to 25 per cent lower than the Northern level?

A. No. I would not admit that. I think that if you had a weighted average, it would not be far different. The rates are higher, for instance, on a big movement from our mills into the Carolina furniture district. They are all on rates higher than the Northern level in those certain blocks. I do not know what the weighted level would be, but I would guess it would not be far different.

Q. Mr. Hart, why did you run the comparisons on lumber to 1,500 miles?

A. I do not know. I ran out of paper, I expect.

Q. Did you not have to pass 950 miles before you got [fol. 1744] higher than the Official territory level?

A. No. I did not do it for any ulterior motive at all, Mr. Ribe. I just had this comparison handy. I was merely trying to show that in the North lumber moved on class percentage rates, and in the South moved on commodity rates, that is all.

Q. Can you point out one haul in the South on lumber that is as much as 1,500 miles?

A. No, but if you want to go into this lumber question, I will go into it with you. If you take a thousand mile haul from the South interterritorially, you will find all the rates interterritorially are higher on either scale except into Trunk Line territory. That will cut every rate you have into the North, practically. Use either scale you want to use.

Q. These comparisons of yours deal only with the intra-territorial rates, do they not?

A. That is right. I was only trying to show the pattern of the rates in the two territories. There has been a claim by certain people——

Chairman Aitchison: You have answered the question when you said "That is right".

By Mr. Ribe:

Q. Mr. Hart, can you cite a Southern movement of lumber for a distance as great as 950 miles?

A. I would probably think that there would be a movement from the Valley, say, from the Hattiesburg group into [fol. 1445] Eastern North Carolina. I think there is some movement there. That would pretty near reach 900 miles.

Q. Refer to sheet 13 of Section 2. I will ask you whether the answer you have just given is not wrong?

A. Well, I do not know—what do you mean, about distance?

Q. Yes.

A. Well, I may be wrong. I was just trying to—I think from Baton Rouge to some points in Eastern North Carolina the distance is around 800 or 900 miles. I do not know exactly.

Q. Is it not true that from the lower Valley to the Carolina territory and also the Virginia cities the rates are on a group basis and the scale does not apply?

A. Of course I know, but taking rates from Memphis where the big movement occurs of hardwood lumber, and you know it, to the furniture district, Memphis is practically on the scale. There are some departures, but to the large consuming area it is on the scale, practically.

Q. Aren't you mistaken about that?

A. No. I have checked them up. I am saying from my own knowledge that they are not.

Q. Are you positive of that?

A. It is a group adjustment and it just happens that from that particular market to the furniture markets, our friends, the railroads, or their commercial agents saw that it would [fol. 1746] be practically on the scale. I suppose that is what they did. I do not know.

Q. What is the purpose of sheets 22 and 21 of section 3-D of your exhibit with respect to pig iron?

A. Just to show what I have been trying to tell you, that there is a commodity adjustment in the North and there is a commodity adjustment in the South.

Q. Is there any intention there to show the relative levels on pig iron?

A. No. I did not do it, because if I had, I would not have shown it.

Q. Is Atlanta a large consuming point for pig iron?

A. It certainly is.

Q. Where do they get pig iron from?

A. Mostly from Birmingham.

Q. What does sheet 22 show the rate on pig iron to be?

A. You have it there before you. Look at it.

Q. Is the rate on pig iron from Birmingham to Atlanta $1.65 for 166 miles?

A. It is.

Q. Can you find a rate within one dollar of that rate for the same distance on sheet 21?

A. I will answer it this way: I think the Atlanta rate is relatively low for good reasons. I do not know if the Commission wants to hear those reasons, but I will be glad to [fol. 1747] give them to them.

Chairman Aitchison: Can you answer the question?

The Witness: Yes.

Chairman Aitchison: Well, answer it, then.

The Witness: I am going to answer it this way, Mr. Chairman: Yesterday there was a gentleman on the stand who uses the rate on pig iron from Birmingham. The distance is 240 miles. His rate is $3.47. If you test that rate with the rate from Chicago to Peoria where he also said he had a plant and drew pig iron from Chicago, that rate is $1.69. On any measure, if you can get the proper relationship, you reduce the Birmingham-Toccoa rate by not less than 70 cents a ton. That is the practical situation. I do not attach any significance to a paper comparison. If we had the same pig iron rate from Birmingham to Toccoa as we have from Chicago to Peoria, then we would have a lower rate. When you take the Atlanta rate, it reduces the Chicago-Peoria rate.

By Mr. Ribe:

Q. So the comparisons you make on sheets 21 and 22 are paper comparisons?

A. Well, I put them that way because I do not know what the weighted average of the rate is in the South as compared to the North. I do not know whether there is any movement from Cleveland to Buffalo, for instance. I do not suppose there is. But if we had a weighted level it would [fol. 1748] be far different than that paper difference. The only purpose of this exhibit is to show that there are commodity rates in the North.

Q. How did you go about selecting the destinations you have used on sheet 22?

A. I just took three or four and put them down there. I did not particularly pick them at all. I just took points that were in the tariffs.

Q. I am speaking about Southern destinations.

A. I took them out of the pig iron tariff, nearly all of the destinations that seemed to be of any importance.

Q. Tell us how important Barnard, Virginia is.

A. I do not know.

Q. Where is Barnard, Virginia?

A. On the Southern Railway. I do not know why I put Barnard down there. Maybe somebody just put it in there. I did not hand pick them, if that is what you want to know.

Q. How important is Bisco, North Carolina?

A. I do not know. That is what I have been trying to tell you, Mr. Ribe. When this exhibit was prepared, I wanted to try to take the high and low, just to get an average which would be fair. I was not trying to test it here at all from that standpoint. If you took Kansas City, Columbus, Atlanta, Toccoa and points that consume pig iron—there are not so many in the Carolinas, or the South—and if you got a weighted rate to those points, you would [fol. 1749] have a different picture of it, but you just have not got it.

Q. Mr. Hart, please refer to sheet 29 of the same section covering cast iron pipe.

A. Yes.

Q. What is the purpose of that exhibit?

A. The same purpose I have been telling you about.

Q. There was no intention on your part, was there, to indicate that cast iron pipe rates from Alabama to anywhere were made in relation to first class?

A. No. I just wanted to show that the pipe rates in both territories were on a commodity basis. That is the whole purpose.

Q. I believe you said that you favor the Appendix E scale for application within and between Southern and Official territories. Is that correct?

A. I said that is about the best scale I have seen so far, that suited me.

Q. Let me ask you this question: Should the class rates in and between those territories be unified and should any basis higher than the Appendix E scale be used, won't those shippers who obtain relief in the Southern Governors' Rate Case lose that gain either wholly or partly?

A. No. I do not see how they could lose it, if you have a unified scale. You might change the rates——

Mr. Norman: If the Chairman please——

[fol. 1750] The Witness: It might change the rates, but it would not change the relationship.

Mr. Norman: I do not see how you can say that they would lose it either in whole or in part.

The Witness: I do not understand it that way, unless you can amplify it. I do not see how you could.

Chairman Aitchison: If you do not understand the question, do not try to go ahead and answer it.

The Witness: All right.

By Mr. Ribe:

Q. Mr. Hart, if you take the Appendix E scale and plus it 10 per cent, that would raise the long-haul rates from the South more than the short haul rates in Official territory, would it not?

A. They have already been plussed 10 per cent. That has already been done.

Q. I say, if in b inging about this unification that is the way it is done, the result will be to lose part of the gain obtained in the Southern Governors' case?

A. I am sorry, but I cannot go along with you on that.

Mr. Ribe: That is all.

The Witness: I cannot follow you.

Chairman Aitchison: Is there any further cros-examination? (No response.) Do you have anything further, Mr. Wagner?

Mr. Wagner: Nothing further.

[fols. 1751-1752] Mr. Norman: I have one or two questions about how long you have been working on this case.

By Mr. Norman:

Q. How long have you been working on this interterritorial rate situation generally?

A. About twenty years.

Q. Is it not true that a good many of the pages found in this exhibit have been prepared by you at various times in the past?

A. That is correct.

Q. So you did not mean to say that everything you have produced here you have started from scratch on and produced in the last six weeks?

A. No.

Mr. Norman: That is all.

The Witness: I thought the Commission wanted a truthful answer.

Mr. Norman: Yes.

Chairman Aitchison: Are there any other questions of Mr. Hart? (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: We will suspend until 9:30 tomorrow morning.

(At 5:10 o'clock p. m., September 29, 1942, an adjournment was taken until 9:30 o'clock a. m., September 30, 1942.)

[fol. 1753]

Hotel Claypool,
Indianapolis, Indiana,
September 30, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a. m.

Before Division-2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner.

Hon. J. Haden Alldredge, Commissioner.

And a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commissioner of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul C. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances: As heretofore noted.

Proceedings

Chairman Aitchison: Come to order, please, gentlemen.

Mr. Wagner: Mr. Hendley will be our next witness, Mr. Chairman. I am now distributing 50 copies of his testimony for counsel only.

Chairman Aitchison: Raise your right hand and be sworn.

[fol. 1754] J. O. HENDLEY was sworn and testified as follows:

Direct examination.

By Mr. Wagner:

Q. Will you state your name for the record, please, Mr. Hendley?

A. My name is J. O. Hendley.

Q. By whom are you employed?

A. The Railroad and Public Utilities Commission of the state of Tennessee.

Q. In what capacity?

A. I am at the head of the Railroad Department.

Q. Approximately how long?

A. For the past 29 years.

Q. Will you state your experience in rate and transportation matters?

A. Prior to the time I had been with the Commission I was connected with the transportation department of the Louisville and Nashville Railroad. From there I went to the General Freight Office of the Southern Railway System, where I spent 13 years, working up from an assistant Rate Clerk to Chief Rate Clerk. I was also General Freight Agent of a short line railroad in North Carolina for two years.

Q. Have you prepared an exhibit?

A. I have.

Mr. Wagner: May that exhibit be marked for identification as exhibit 91, Mr. Chairman?

[fol. 1755] Chairman Aitchison: It may be so marked.

(Exhibit No. 91, Witness Hendley, marked for identification.)

By Mr. Wagner:

Q. Did you prepare this exhibit which has been marked for identification as exhibit 91?

A. I prepared the exhibit myself with possibly two exceptions. One of those was on page 8. The Tennessee River was sketched in on this map in the office of the Tennessee Valley Authority at Knoxville, Tennessee. Page 15 was compiled under my supervision.

Q. The statements made therein are true and correct?

A. They are to the best of my knowledge and belief.

Q. Will you proceed in your own way and explain it?

A. The testimony which I am about to give is my own. I have not collaborated with anyone in its preparation. I am firmly of the opinion that there should be one level of class rates in that territory east of the Mississippi River. The object of my testimony today will be directed to the unjust, unreasonable and discriminatory line across Tennessee which has been suggested by Mr. Jensen. His suggestion (Exhibit No. 7), separates the state of Tennessee into 2 definite rate zones, and if adopted by the Commission would only serve to further complicate, rather than to improve, railroad Class Rates.

It is apparent to me that Mr. Jensen has given too much [fol. 1756] weight to interterritorial traffic between Central territory and the South (including Tennessee), and has not given due consideration to intraterritorial rates in the South, nor has he given due consideration to interterritorial traffic between the South and the East via all rail, or rail and water, nor has he given due consideration to interterritorial rates between the South and the West. Pages 1, 2 and 3 of my exhibit are reproduced for ready reference from Mr. Jensen's exhibit No. 7. These pages contain the data relied upon by him to justify the separation of Tennessee into two separate and distinct rate zones.

I will first direct my testimony to the fact that if there is to be a difference in the level of Class rates in Kentucky as compared with Tennessee, the first three pages of my exhibit will prove conclusively that Tennessee, and not Kentucky, is entitled to the lower level of class rates. Later on I will prove with the same and other data that there is no thinning out of population and manufacturing in passing from north to south in Tennessee, as is stated by Mr. Jensen, but that the exact reverse is true.

Referring to page 2 of my exhibit, comparison is made showing the tons of freight classified by the Commission as manufactures and miscellaneous. The density of this traffic in Tennessee exceeds the density of like traffic in Kentucky by 68.5 per cent. The value of manufactured [fol. 1757] goods for the year 1937 in Tennessee exceeded the value of manufactured goods in Kentucky by 40.2 per cent. The value of manufactured goods per 1,000 square miles of area in Tennessee exceeds the value in Kentucky

for a like area by 34.9 per cent. The value of manufactured goods per 100 miles of railroad in Tennessee exceeds the value in Kentucky for a like distance by 40.1 per cent.

Page 3 of my exhibit will show the population trend, showing that the population trend in Tennessee for the past 20 years exceeds the population trend in Kentucky by 38.9 per cent. Using these several different bases which Mr. Jensen used in reaching his decision, you will find that the average for Tennessee exceeds the average in Kentucky by 44.5 per cent.

Page 4 of my exhibit shows the population comparisons for Tennessee and Kentucky only, so you can see at a glance that the trend of population in Tennessee not only exceeds the trend of population in Kentucky by 38.9 per cent, but that in 1920 Tennessee had a less population than Kentucky, and in 1940 Tennessee had a greater population than Kentucky.

Page 5 of my exhibit: The 1927 comparison of revenue ton miles 1 mile, per mile of road, is taken from my exhibit No. 156 in Docket No. 21373, which was the Kentucky Rate Case. This statement shows that in 1927 the density of traffic on every railroad serving both Kentucky and Ten- [fol. 1758] nessee, with the exception of the Louisville and Nashville Railroad, was greater in Tennessee than in Kentucky. This page of my exhibit also shows the density of class rate traffic in 1937 in Tennessee was 68.5 per cent greater than in Kentucky. To my mind the presumption is, that for the intervening 10 years the trend has not changed.

Page 6 of my exhibit shows that in Tennessee a larger per cent of the population is of the laboring class than in Kentucky and that a larger per cent of the laboring class are employed in Tennessee than in Kentucky. This statement speaks well for Tennessee much better than for Kentucky. Kentucky exceeds Tennessee in the number of laborers on public emergency work, such as W.P.A., and Kentucky also exceeds Tennessee in the number of laborers seeking work. These figures were taken from the 1940 census and speak for themselves.

The geographic location of Tennessee, as well as the location of its railroads, is such that density of class rate traffic in the South reaches its peak in Tennessee, because it is in Tennessee, that northbound and southbound, eastbound and westbound, and northeastbound and southwest-

bound class rate traffic all meet. A large portion of rail traffic in Tennessee is east or westbound. The preponderance of Tennessee traffic producing industries are on or south of the proposed line, and not north thereof. My in- [fol. 1759] vestigation convinces me that class rate traffic from manufacturers in Tennessee moves principally to points in the South and West. There is also some movement to the East. The movement of class rate traffic to the north is limited. If we could reach the markets in the North there would not be much occasion for the present investigation. Page 2 indicates tons per mile of railroad of manufactures and miscellaneous articles in Tennessee far exceeds that in any other Southern state. If the proposed suggestions were followed, Nashville would have a lower level of rates than points south of the line on traffic destined to the East, yet that part of the haul in Tennessee from Nashville to the East, via the short line (note 5, page 15), would be entirely in the higher rated territory.

Page 7 of my exhibit is a statement furnished by Mr. Jensen indicating his basis for the line across Tennessee, separating the two rate levels. It shows the area, the population and the value of manufactured articles in million dollars on and north of the proposed line, as compared with the area, population and value of manufactured articles south of the line. There is no doubt in my mind but that points on the line should be treated as neutral territory. These points are neither in Northern area nor are they in the Southern area, and in as much as the preponderance of class rate traffic originating at these border [fol. 1760] points is destined to points in the East, South and West, rather than to points in Central territory, the border points should certainly be classified as such in the Southern as well as in the Northern group, and therefore should be treated as neutral.

Page 8 of my exhibit is a map of the state of Tennessee. The heavy black line is the Jensen line and is based upon Mr. Jensen's letter together with his evidence as shown on page 234 of the record. This map also shows the Tennessee River and its numerous dams, which are used in the production of electric energy. Page 9 of my exhibit is a statement showing the population of the various cities and towns on the proposed line.

Page 10 of my exhibit: I have revamped Mr. Jensen's exhibit on what I consider the proper basis, that is, show-

ing north of the line and on the line separately. This will have the effect of showing the area north of the line as 23.8 per cent of the total area instead of 23.9 per cent, and the population as 17.9 per cent in lieu of 25.4 per cent, and the value of the manufactured articles as only 10.19 per cent in lieu of 25.06 per cent as shown by Mr. Jensen. In arriving at the value of the manufactured articles in neutral territory I have used the actual figures for Nashville and Old Hickory, and for the other points the ratio which the population of points on the line bear to the total population of the county.

[fol. 1761] Page 11 of my exhibit gives my authority for the value of articles manufactured at Old Hickory. Kindly note that for 1941 the value was approximately 25 per cent over 1937, or more than 33 million dollars. Page 12 of my exhibit shows a comparison in the population and value of manufactured articles for the year 1937 in those counties touching the northern border of the state of Tennessee, with those counties touching the southern border of the state of Tennessee, from which you will see that the northern border counties represent 17.94 per cent of the area of the state, 14.81 per cent of the population and only 9.38 per cent of the value of manufactured articles which is much below the average. Those counties touching the southern border of the state represent 19.87 per cent of the area, 28.01 per cent of the population and 39.78 per cent of the value of manufactured articles, or exactly 200 per cent of the average, that is, two times 19.87 per cent which is the per cent of the area. This comparison proves conclusively that the territory south of the line far exceeds in density of population and in the value of manufactured articles that part of the state north of the line. Those counties on the northern border where the value of manufactured articles is omitted have no industries to speak of that I know of, while in Polk County, on the southern border is located one of Tennessee's largest factories, that is, the Tennessee Copper Company, which manufactures not only copper, but as a by-product manufactures sulphuric acid, [fol. 1762] and the value of its by-product according to our latest reports is more valuable than the value of the copper.

Page 13 of my exhibit shows to a marked degree how much better the points south of the line would have shown up in 1939 or 1940 had Mr. Jensen used the 1939 or 1940

figures instead of the 1937. This statement shows the electric energy purchased by industries from the T.V.A., and it will give you some idea as to how those counties south and east of the line must really be progressing from a manufacturing standpoint. The T.V.A. electricity was not in general use in 1937 which accounts for its increased sales from 1937 to 1940. I have not used any later figures because that would be abnormal due to the present emergency conditions. In Blount County is located the American Aluminum Company. In Maury County is located the Victor Chemical Works, the Monsanto Chemical Company and the National Carbon Company Works along with other large interests. In Knox County is located the American Zinc Company's plant. In Polk County the Tennessee Copper Company and in Jefferson County another of the American Zinc Company's plants. These figures represent electrical energy purchased from the T.V.A. by industries. Those municipalities purchasing electrical energy from the T.V.A. such as Knoxville, Chattanooga, Memphis, Nashville, et cetera, furnish industries within their respective [fol. 1763] areas its electrical energy and these cities purchase from the T.V.A.

Returning to page 8 of my exhibit for a moment, your attention is called to the location of dams and electrical generating plants along the Tennessee River Valley. With one exception all of these are located south of the line. In addition to these hydro-electrical generating plants, there are several standby steam plants which in any emergency will be capable of and are necessary in assuring at all times to each and every manufacturer an even flow of electrical energy. I happen to be acquainted with a steam plant which is located at Watts Bar Dam, in Rhea County, Tennessee, and which is in addition to the hydro-electric plant. It does, or will, consist of four units of 60,000 KW each, which if used to their full capacity would be capable of generating more than two billion kilowatt hours of electric energy per annum, and which would consume approximately one million tons of coal per annum. It has a storage facility for 400,000 tons of coal.

Page 14 of my exhibit shows the unusually large movement of cotton piece goods, denims and shirtings into the Nashville Tennessee area, and necessarily of work clothing out of the Nashville area. The entire inbound movement

is through southern and eastern Tennessee and of the outbound movement in normal times 80 per cent is within the [fol. 1764] South and West, with not more than 20 per cent in other sections.

Page 15 of my exhibit very clearly demonstrates why it is that Nashville cannot sell work clothing in the North and East, as her rates mile for mile are approximately 31.5 per cent higher than those of her competitors in Central territory. Page 16 of my exhibit is a newspaper clipping from a Nashville paper of August 19, 1941, which will give you some idea of the magnitude of the aluminum plant which was just being completed in Blount County, Tennessee, a point south of the line.

Page 17 of my exhibit gives some idea as to the amount of dairy products manufactured during 1939 in Tennessee, that is, 91,050,076 pounds together with 4,425,172 gallons of ice cream. These dairy products are processed by Borden at its two plants, one in Fayetteville and one in Lewisburg, by the Carnation people at their one plant in Murfreesboro, and by the Pet Milk Company at its plant at Greenville, all of which are south of the line. The Kraft people have several smaller cheese factories at different points in the state.

Page 18 of my exhibit is intended to give weight to my testimony in reference to movements to and from the East. It shows to what extent the rail and water routes are patronized. Traffic to and from Tennessee points when from, or to the East via the rail and water routes never [fol. 1765] gets north of the line in Tennessee. It is strictly an east and west movement so far as Tennessee is concerned.

I find no reasonable justification in the census reports of manufacturing for drawing any line at all, either through Tennessee or elsewhere. Had 1939 figures in lieu of 1937 figures been used by Mr. Jensen, Tennessee would have made a better showing. Our primary purpose in insisting that your Commission go forward and not delay this investigation during the war period is first, changes in rate structures at this particular time could be made effective with much less interference to business than in ordinary times and certainly with no greater interference than the customary ex parte advances.

Second, factories new and old, in Tennessee, are now engaged in the manufacture of war materials and when this war is over these factories could with ease turn to the manufacture of those articles of commerce useful and used in times of peace, the stock of which will be almost, if not completely exhausted. When that time comes the South, the Tennessee River Valley and Tennessee must have just, reasonable and non-discriminatory freight rates or else these factories will close their doors and move to points where better rates are available.

Mr. Wagner: We offer in evidence exhibit No. 91, if the Chairman please.

[fol. 1766] Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 91? (No response.) Without objection it is received.

(Exhibit No. 91, Witness Hendley, received in evidence.)

Mr. Wagner: You may cross-examine.

Chairman Aitchison: Mr. McCollester.

Cross-examination.

By Mr. McCollester:

Q. Mr. Hendley, referring to your exhibit No. 91, do you quote the excerpt on page 14 as being a correct statement of the facts as you know them?

A. Page 14?

Q. Yes.

A. Yes. I know that Nashville and the area around Nashville does manufacture an immense quantity of work clothing, but I do not know whether it is the largest in the country or not. I am trusting to the Interstate Commerce Commission statement as to that.

Q. Do those concerns sell work clothing to Sears, Roebuck & Company and Montgomery Ward?

A. I do not know.

Q. Do you know to whom they do sell?

A. They tell me they sell about 80 per cent of them to the South.

Q. You do not know to what buyers, though?

[fol. 1767] A. No, I do not.

Q. Do you know whether any work clothing manufactured in New York is sold in Grand Rapids, Michigan?

A. No.

Q. Or whether any work clothing manufactured in New York is sold in Cleveland, Ohio?

A. I do not know.

Q. What difference in freight rates determines whether a concern can sell or cannot sell clothing, work clothing, in a given market? Do you know that?

A. I know that freight rates is one of the elements that must be considered. To what extent, I do not know.

Q. In preparing your page 15 of your exhibit No. 91 in order to show the freight rates which would control the sale of clothing in any given market if freight rates do control the sale of clothing, why did you not in the case of Detroit, Michigan show the freight rate from the nearest point to Detroit instead of from the furthest point to Detroit in Official territory?

A. Well, I was endeavoring to show a point of equal distance from Nashville.

Q. But would it not be a reasonable assumption that a point nearer Detroit and therefore having the lowest freight rate, would set the market in Detroit which the manufacturer both in New York and in Nashville would have to meet?

[fol. 1768] A. If he has natural advantages, they do, of course, have much effect.

Q. In the case of the destinations shown on your exhibit 15, you have not in any instance shown the lowest freight rate into that particular destination from a producing point of clothing, have you?

Mr. Murphy: Page 15, or exhibit 15?

Mr. McCollester: Page 15. Thank you.

The Witness: I have simply shown points in the Northern or Central territory for a like distance as the distance from Nashville to the same points.

By Mr. McCollester:

Q. As far as you know there is not any movement under any of these rates you have shown in Official territory?

A. I know that mile for mile the rates in Central territory, from Nashville, are approximately 31.5 per cent higher than the rates for the same distance in Central territory.

Chairman Aitchison: Please answer the question. You have not answered the question.

The Witness: I do not know where the movement is in Central territory.

Mr. McCollester: That is all.

Chairman Aitchison: Is there any further cross-examination?

Mr. J. R. Bell: I have one question.

[fol. 1769] Chairman Aitchison: Mr. J. R. Bell,

By Mr. J. R. Bell.

Q. Refer to page 13 of your exhibit, please, Mr. Hendley.

A. Yes.

Q. To what extent does private enterprise engaged in the production of electrical energy exist in this territory now?

A. My judgment is that there is not as much private enterprise engaged in that business as there has been in former years.

Q. The major part of it was taken over by the Tennessee Valley Authority, was it not?

A. That is true.

Q. When did that occur?

A. That occurred along about 1937.

Q. So these figures on page No. 13 are not intended to be representative of the comparative consumption of electrical energy as a whole, but merely what has been furnished by the Tennessee Valley Authority, is that correct?

A. I know from my own personal knowledge that industries have been located there for the express purpose of getting Tennessee Valley Authority electricity, especially in my home county of Maury County, Tennessee.

Chairman Aitchison: Please answer the question, Mr. Hendley. You are not answering the question at all.

The Witness: Pardon me. What is the question?

[fol. 1770] Chairman Aitchison: Read the question.

(Question read.)

Mr. J. R. Bell: I withdraw it.

Chairman Aitchison: The question is withdrawn. Is there any further cross-examination?

Mr. Ribe: I have one or two questions, please.
Chairman Aitchison: Mr. Ribe.

By Mr. Ribe:

Q. Mr. Hendley, I gather from your testimony that the principal trouble is the rates from Tennessee to the North?

A. That is part of the trouble, but the rates between points in the South also.

Q. Is Nashville a large producing point for boots and shoes?

A. It is.

Q. Are not the rates today, carload and less than carload, from Nashville to Official territory on a lower level than within Official territory?

A. I do not know.

Q. Well, that is shown on sheet 2 of section 3-B of Mr. Hart's exhibit 88.

A. I have made no study of those rates.

Q. Now, on sheet 9, section 3-B of Mr. Hart's exhibit No. 88 is shown that the less than carload ratings on drygoods from the South to Official territory are 70 per cent of first class and that the Official territory level is 100, or rather, [fol. 1771] first class. Would that not make the rates on drygoods less than carload from Nashville to Official territory less than in Official territory?

A. My study here has reference to the—I am not prepared to answer that question.

Q. The same page shows a carload rate on drygoods from the South to Official territory of 78 per cent of first class and that the Northern level is first class. Would that not make the rates lower from Tennessee than within Official territory?

A. I have not checked them.

Q. You have not checked them?

A. No.

Mr. Ribe: Thank you.
Mr. Widell: I have a few questions, Mr. Chairman.
Chairman Aitchison: Mr. Widell.

By Mr. Widell:

Q. Mr. Hendley, with reference to the rate level that you speak of as so discriminatory, do you know of any concern that has refused to locate in Tennessee by reason

strictly of the 13494 class rate adjustment in the South and in Tennessee?

A. We got a list of some of them from the Commercial Club of Nashville, but I do not remember the names. There were some five or six of them that had declined to locate in Tennessee by reason of the fact that the rates were only [fol. 1772] one of the reasons given.

Q. Speaking now of class rates?

A. Yes. Articles that generally take class rates.

Q. Do you know of your own personal knowledge of any concern that has refused to locate in Tennessee because of our first class rate level?

A. I have not made——

Q. Will you answer the question "Yes" or "No"?

Chairman Aitchison: He is trying to answer the question, Mr. Widell. Let him finish.

The Witness: We are not in touch with those people that come to Tennessee and are looking for a location in which to build a plant.

Mr. Widell: I see.

The Witness: We do not come in contact with them. They go to the commercial organizations, and I am, therefore, not familiar with them.

Mr. Widell: Thank you, sir.

Chairman Aitchison: Is there any further cross-examination of Mr. Hendley? (No response.) Have you anything further, Mr. Wagner?

Mr. Wagner: No. That is all.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

[fol. 1773] Mr. Norman: Call Mr. Eric Morrell.

Chairman Aitchison: Raise your right hand and be sworn.

ERIC MORRELL was sworn and testified as follows:

Direct examination.

By Mr. Norman:

Q. Will you state your full name, residence, and occupation for the record, please, Mr. Morrell?

A. My name is Eric Morrell, Baltimore, Maryland, editor and director of Research and Statistics for the Manufacturers Record.

Q. What character of publication is the Manufacturers Record?

A. It is an industrial publication that came into existence and still exists for one purpose and one purpose only, the industrial development of the South.

Q. How long has that publication been issued?

A. I do not remember the exact date when it first came into existence, but as a separate publication by itself under that one name, it has been in existence for 60 years.

Q. In connection with your duties in the position which you have stated you occupy, have you made a study of the industries of the South?

A. I have. It is an essential part of my work.

Q. I will ask you to describe the manufacturing industries of the South from the standpoint of the size of the corporations engaged therein.

[fol. 1774] A. That is a rather difficult question to answer in full because there are so many different classifications, but there are one or two very pertinent and interesting phases of it. With respect to large corporations or large plants, whichever term you like to use—actually it is large plants, manufacturing plants—there is less than one and a half per cent of all manufacturing plants in the South and Southwestern territory which, together, have an output of almost 45 per cent of the total value of all manufacturing in that territory.

Q. Now, what about the corporations, say, from $250,000 capitalization to $500,000?

A. The number I do not have specifically, but approximately it is less than 2,000. There are less than 2,000 such plants in the South and interestingly enough, in Official territory, the number is close to 9,000.

Q. What about the small corporations, that is, less than $250,000?

A. Those again I do not have with me at the moment, but I do know that in the South and Southwestern territories, over 36 per cent of all manufacturing plants have an output individually of less than twenty thousand dollars per year.

Q. Now, Mr. Morrell——

A. In other words, there is a preponderance of small local manufacturing.

[fol. 1775] Q. Now, Mr. Morrell, what in your judgment is the explanation of the large number of very small plants and the low number of medium sized plants?

A. The large plants are engaged in what I would term primary manufacturing——

Q. No. I did not mean that class. There are the three classes that you have named, the large ones which produce, or rather, which represent one and a half per cent of the total in number, and produce 45 per cent of the total output——

A. Correct.

Q. —then the medium size and then the small class.

A. Correct.

Q. Just describe the products of the large ones. That is what I understood you to start to do.

A. The large plants are for the most part, what I would term primary manufacturers. That is, they produce from the raw materials, the basic raw materials, for further processing and do not very often engage in the production of finished final manufactured products.

Q. Where do they market this basic or primary product?

A. Well, of course, the vast majority of it I would say, in my opinion, goes into Official territory, in the North and East.

Q. It is there further manufactured?

A. There it is further manufactured into finished prod-

[fol. 1776] ucts on which there is a very much larger margin of profit than on the primary manufacturing.

Q. Now, how do you explain the great number of small plants in the South?

A. That is due very largely to the fact that they supply purely local markets.

Q. How do you explain the division in the medium sized plants?

A. The lack of finished product manufacturing for large markets.

Q. How do you explain the lack of that market?

A. That is a vicious circle, primarily consisting of two factors, each working on the other: One, the so-called low per capita purchasing power of the South; and the other, the freight rate question which has acted toward the non-establishment of the finished product manufacturing. You

see, the manufacturers of finished products when they are asked to settle in the South say that there are two things acting against them. One is the low purchasing power of the South; and the other is that to reach a wider market sometimes they have come up against the freight rate question which acts against them.

Q. In your research and work have you made any investigation as to the raw materials of the South and what is done with them?

A. Yes, a very great field, because by far the majority [fol. 1777] of my work for the location of new industries is based upon the South's predominance in the field of raw materials, both mineral and agricultural. In the field of non-metallic minerals——

Mr. McCollester: Will you speak louder, please? We cannot hear you back here.

Mr. Norman: Get a little closer to the microphone and speak louder, so they can all hear you.

The Witness: In the field of non-metallic minerals the South has a great preponderance. Those are what I shall refer to as extractive processes. They do not show up in the field of manufacturing. They come under the heading of mining. So that actually, the raw material production in the South is very much greater than is indicated by the manufacturing statistics alone. Now, in the extractive processes, by far the majority of those processes take the raw materials out of the South and ship them largely into other territories of the country for processing. That is particularly so not only in the first phases of manufacturing, but especially in the realm of the processing of the finished product.

By Mr. Norman:

Q. Have you made efforts to have plants located in the South utilize these raw materials?

A. Yes, indeed, a very great number of efforts and attempts have been made. Some have been successful. Some have not.

Chairman Aitchison: Will you explain just how it is the [fol. 1778] function of the Manufacturers Record to establish industries in one place or another?

The Witness: Yes, Mr. Chairman. That is something on which we have to be very, very careful. As stated, we

are concerned with the South. Perhaps I can best illustrate our position by taking a specific example. I cannot give the name of the company involved, however.

A man telephoned me one Friday evening from up North and asked if he could come and see me Saturday morning, which he did. He flew down. He explained his problem and said he wanted to move South to do his manufacturing. He asked if I could suggest where to go. We sat down——

Mr. Norman: Just a minute, please, Mr. Morrell.

The Witness: Yes.

Mr. Norman: I do not think you understand the Chairman's question. He wanted to know why it is a function of a publication such as yours to do this.

The Witness: I am sorry. I misunderstood your question. I cannot explain that except to say that the founder of our publication was a southerner who was fired with a zeal for the South and a belief in its future and a belief that the raw materials there presented an opportunity not only for improving the economic condition of the South, but thereby for improving the wealth of the nation as a whole.

By Mr. Norman:

Q. Your publication has been devoted to that service? [fol. 1779] A. Very definitely.

Q. Now you can proceed with the illustration you started to give.

A. I do not know that there is any point in continuing with that, since I misunderstood the question. I thought the question was, how do we get industries to locate in any specific position.

Q. Then I will ask you that question.

A. This man came down to see me. We sat down and went into an analysis of the factors that would go into his manufacturing, that is raw materials, labor and so forth. We then narrowed the area of the South and Southwest down to those small sections where he might be able to carry on his manufacturing on an equal or better basis than he had been doing elsewhere. We got that down as closely as we could and it resulted in two specific areas. We would not, however, recommend either of them since they appeared to be equal, nor would we recommend any specific site. In that case I sent him on down South.

to those two areas with introductions to the industrial agents of the railroads, the power companies, the chambers of commerce and other such organizations for them and and him together on the spot to select and make his own choice without interference or over emphasis on our part.

We make no attempt to locate a company in any specific [fol. 1780] spot when they come to us, unless there is a very special reason for it. We wish to avoid any possible criticism of favoritism to one area over another.

Mr. McCollester: That is, one section of the South over another section of the South?

The Witness: That is correct.

By Mr. Norman:

Q. Proceed.

A. That is all I have to say on that subject.

Q. Did he locate in the South?

A. No, he did not because in the final analysis it was discovered that the freight rates mitigated against him, or rather, militated against him too greatly. He was already under pressure because competitors in the North on the question of labor had narrowed his profit down to a very, very small margin, and the difference in freight rates,—I do not know what it was, and I would like to interrupt there to say that I am not a freight rate expert. In fact, I know nothing about it, and purposely avoid the subject because it is too complicated and too extensive, and might interfere with our work. The margin he told me was too small in his profit to permit locating in the South in view of the increased freight rates, though the distances were apparently the same.

Q. Have you generally——

Mr. McCollester: Mr. Chairman, I move to strike that [fol. 1781] last statement as hearsay.

Chairman Aitchison: Do you resist?

Mr. Norman: I beg your pardon?

Chairman Aitchison: Do you resist?

Mr. Norman: I think that is competent testimony, for him to state what the reasons are that people give for not locating in the South.

Chairman Aitchison: I think it is one of the seeming exceptions to the hearsay rule. Overruled.

By Mr. Norman:

Q. Had you finished your answer?

Yes.

Q. I will ask you if, in undertaking to locate industries, or get industries to locate in the South, you are given by those whom you seek to interest as a reason for not locating that the freight rate adjustment will not permit them to locate in the South?

A. I can state that in this way, that that is frequently given to me as one of the primary reasons for not locating in the South. It is not always given, nor is it always the only reason. Sometimes it is.

Q. Mr. Morrell, there has been some testimony here with reference to large deposits of clay or kaolin in the South and testimony to the effect that it is shipped out in the raw state to the North. Have you made any efforts to locate plants on those deposits for the purpose of manu-
[fol. 1782] facturing into finished articles?

A. Yes. I have done a certain amount, not so much with the kaolin clays as I have with the ball clays, and especially the ball clays of Tennessee. I have worked rather closely with Tennessee on that because they have very large deposits, commercial deposits, and readily accessible. I have also done quite a bit with bentonite.

Q. With what?

A. With bentonite which is of the clay family. Only recently I had an example of a new bentonite deposit that was discovered in Tennessee. Since the Manufacturers Record had been responsible for the location of one corporation to operate a bentonitic deposit previously, I contacted that same corporation with a view to the possibility of them taking over this deposit or part of it. They told me that they were unwilling to go further into it; that the margin was too small and that they could not afford to establish finished product manufacturing in the South; and that most of it was exported into Official territory.

Q. In the raw state?

A. In the raw state.

Q. Unless you have something you particularly want to add, I think that is all.

A. I do not know that I have anything more.

Mr. Norman: The witness is tendered for cross-exam-
[fol. 1783] ination.

Chairman Aitchison: Mr. Ellison.

Cross-examination.

By Mr. Ellison:

Q. Mr. Morrell, you mentioned bentonite.

A. That is true.

Q. Where are the principal deposits of bentonite in the United States, if you know?

A. I am sorry. I cannot answer that. I can only speak for the South. The South is the only part of the country in which I am primarily interested because that is where my work is.

Q. Do you know of any deposits in Official Classification territory?

A. I cannot answer that. I am sorry.

Mr. Ellison: That is all.

Chairman Aitchison: Mr. J. R. Bell.

By Mr. J. R. Bell:

Q. I understand you live in Baltimore?

A. That is true.

Q. You publish some paper there?

A. The Manufacturers Record.

Q. Do you distribute that through the South and through Official territory also?

A. Yes, indeed.

Q. Just by way of illustration, you mentioned some man who was contemplating moving from Official territory to the South.

[fol. 1784] A. I did not say he was from Official territory, though it so happens he was.

Q. Are you making an effort to move manufacturing industries from Official territory to the South?

A. I must qualify my answer to that, if you please. There is no point in me or anyone else taking a manufacturing plant from one part of the country to locate in another unless it is economically advisable for the company as a whole. In other words, there is no use in improving the condition of the South at the cost of some other part of the country, and frequently, particularly in recent years as the chemical process industries have developed showing the resources of the South as far as raw materials are con-

cerned, it is sometimes, not always, but sometimes, economically desirable for the benefit of the country as a whole to change. Generally, however, the new industries or plants that we attempt to establish in the South are based upon new industry, not moving an industry from one place to another.

Mr. J. R. Bell: Now, I assume that that was supposed to be directly responsive to my question. Will you please read the question to the witness, Mr. Reporter.

Mr. Norman: I insist that the answer was directly responsive to that question. Every witness I put on the stand, Mr. Bell gets up and says he does not respond to his questions. I ask that the question be read and that the answer be [fol. 1785] read. I insist that it was responsive. He has no right to tell the witness that his answer was not responsive to the question.

Mr. J. F. Bell: I was not aware that I had asked Mr. Norman's witness any additional questions. I thought this was the question——

Chairman Aitchison: Read the question, and the answer, please, Mr. Reporter.

(Record read.)

Chairman Aitchison: The question has been answered.

Mr. J. R. Bell: I asked this witness whether he was making any efforts to move industry from Official territory to the South.

Chairman Aitchison: He answered your question.

Mr. J. R. Bell: He has not answered it.

Chairman Aitchison: Mr. Bell, I have ruled.

By Mr. J. R. Bell:

Q. What was the industry that you gave as an illustration which you say was located in Official territory?

A. I am not very sure of my position here at the moment, but with your permission I should like to refuse to answer that question for one particular reason, and that is that the field of manufacturing is so limited, I believe for me to mention the product would disclose the company involved, and I cannot break my confidence.

[fol. 1786] Chairman Aitchison: I do not think he ought to be pressed to that extent, Mr. Bell.

Mr. J. R. Bell: Do I understand that that is your ruling?

Chairman Aitchison: Yes.

Mr. J. R. Bell: Then I will have to submit to it.

Chairman Aitchison: I am afraid you will, for present purposes, at least.

Mr. J. R. Bell: Just as a matter of record, Mr. Chairman, I move to strike the testimony of the witness where he said that someone endeavored to locate in the South and was not able to do so, in view of the fact it is now developed to be confidential and cannot be pursued on cross-examination. That is all.

Chairman Aitchison: The motion is denied. Is there any further cross-examination?

Mr. McCollester: I have a few questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Morrell, I just want to have the record a little more clearly indicate the exact nature of the statistics that you gave at the beginning of your testimony.

A. Yes.

Q. If I correctly understood what you said, it was to the effect that of the large industries in the South, less than [fol. 1787] one and a half per cent had an output of over 45 per cent of all manufacturing in the South and Southwest, is that correct?

A. No. That is not exactly correct. I am sorry if I did not make myself clear.

Q. Please correct me.

A. My intent was to say——

Mr. Norman: Talk louder, please.

The Witness: My intent was to say that less than one and a half per cent of all manufacturing plants in the South —as a matter of fact, the specific number is 370 out of slightly over 27,000 manufacturing plants—those together had an annual output volume in dollar value of almost 45 per cent of all the value of manufacturing products in the South.

By Mr. McCollester:

Q. Now, when you speak of plants, and those figures of 370 and 27,000, are those figures industrial establishments

as listed in the census reports, or is it individual plants, or individual companies? Just what are the figures?

A. That is officially tabulated as number of establishments.

Q. I see.

A. The figures are taken from the United States Census Bureau.

Q. Does the same explanation apply to your figures for the so-called medium plants, of which you said there were less than 2,000 in the South and something like 9,000 in Offi-
[fol. 1788] cial territory?

A. That is correct.

Q. What do you include in the South? I believe in one portion of your testimony you referred to the South and Southwest.

A. With respect to these specific figures, and when I refer to the South and Southwest territories, I refer to those areas so designated as freight rate territories with this exception, that as the actual territorial boundaries go through some states for statistical purposes I was obliged to change those slightly. For instance, in the case of Virginia, the actual boundary goes through Virginia, but as most of it is in Official territory I included all of it.

Q. You are looking now at the Tennessee Valley study, are you, in evidence in this case?

A. Yes, I am, I think.

Q. Then with respect to the small plants, so-called, I believe you testified that over 36 per cent had an output of less than $20,000 per year?

A. That is correct.

Q. Did you make any examination to see what the situation was in the state of New York as to what proportion by number of the total number of plants had small dollar output?

A. No. I am sorry, but I did not. It was not done deliberately, but my work is practically confined to the South and
[fol. 1789] the only reason I even checked approximately on the medium sized plants was because somebody happened to mention that to me the other day and just for curiosity I checked it, roughly.

Q. From your general study of the industrial situation of the country are you not aware, Mr. Morrell, that New York City represents probably the greatest concentration of very small industrial units in the country, little clothing manu-

facturers, artificial flower manufacturers, and little manufacturers of that sort?

A. I was not aware of that fact.

Mr. McCollester: That is all, thank you.

Chairman Aitchison: Is there any further cross-examination? (No response.) Have you anything further, Mr. Norman?

Mr. Norman: No.

Chairman Aitchison: You may stand aside.

(Wtness excused.)

Mr. Norman: Mr. Chairman, that concludes the presentation on behalf of the Southern Governor's Conference except for the Florida situation. Mr. Hillyer will deal specifically with that situation, although I may say now that at the postponed hearing we will probably want to introduce some further evidence.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

[fol. 1790] Chairman Aitchison: On the record. Proceed.

Mr. Hillyer: Mr. Chairman, may I say that the Florida testimony relates primarily to the Florida arbitraries. We have four witnesses who will cover four branches of our study. Mr. Maurer will present the technical rate studies. Mr. Donnell will present the traffic studies. Mr. Grady will present the water competitive feature. Dr. Eutsler of the University of Florida will cover the economic study. We have four exhibits which have been distributed to all parties present, as far as I know, and liberal copies of the testimony have been distributed also.

Our first witness is Mr. Maurer. We have his exhibit consisting of 114 pages in a large blue binder. We ask that it be marked for identification as the next exhibit.

Chairman Aitchison: It may be marked for identification as exhibit 92.

(Exhibit No. 92, Witness Maurer, marked for identification.)

Chairman Aitchison: Raise your right hand and be sworn.

[fol. 1791] T. C. MAURER, was sworn and testified as follows:

Direct examination.

By Mr. Hillyer:

Q. Will you state your name, residence and occupation, please, Mr. Maurer.

A. My name is T. C. Maurer. I am employed as traffic manager for the Jacksonville Traffic Bureau and others with offices at 227 West Forsyth Street, Jacksonville, Florida.

Q. Have you prepared an exhibit of rate studies for the purpose of this case?

A. I have.

Q. Was that exhibit prepared wholly by you and in part under your direction?

A. It was.

Q. Is it true and correct?

A. To the best of my knowledge and belief, yes.

Q. Has an errata sheet been attached to your testimony correcting certain typographical errors in the exhibit?

A. It has, and it appears as the last sheet of my written testimony.

Q. Please proceed to present your written statement, Mr. Maurer, omitting certain rather non-essential elements.

A. I have been engaged in transportation work since 1919, at which time I was employed by the Seaboard Air Line Railway in its general freight office at Norfolk, Vir-
[fol. 1792] ginia. From 1919 until 1927 I held various assignments in the Freight Traffic Department, and in 1927 was appointed Commerce Agent, which position I held until leaving the Seaboard Air Line Railway in 1933 for a similar position with the Florida East Coast Railway in its freight traffic department in St. Augustine, Florida.

Since 1937 I have been traffic manager of the Jacksonville Traffic Bureau and others and my duties have been similar to my duties with the Seaboard Air Line and Florida East Coast Railways. I was admitted to practice before the Interstate Commerce Commission in December, 1929.

My duties as commerce agent for the Seaboard Air Line Railway and commerce assistant to the general freight agent of the Florida East Coast Railway and as traffic

manager for the Jacksonville traffic bureau required a study of the various rate adjustments and transportation conditions and the preparation and presentation of testimony and exhibits before the Interstate Commerce Commission and the various state regulatory bodies. My duties required a thorough knowledge of the various rate structures existing in different parts of the country, including the general class rate structure prescribed by the Interstate Commerce Commission, Docket 13494, Southern Class Rate Investigation; Docket 15879, Eastern Class Rate Case; Docket 13535, Consolidated Southwestern Cases; and Docket 17000 Part II, Western Trunk Line Case. I am [fol. 1793] also familiar with the case involving class rates between Southern and Western Trunk Line territories.

On behalf of the Railroad Commission of the state of Florida, I have made some special studies of class rates and ratings between Florida and interstate destinations in Southern territory and official territory. The state of Florida in this proceeding joins with the other Southern states in requesting a uniform basis of class rates and classification ratings and exceptions thereto between the South, including the state of Florida, and the North. The special studies made by me for the Railroad Commission of Florida for this proceeding have two aspects: first, I have prepared rate studies between Jacksonville, Florida, and points in Southern and Northern states using Jacksonville as representative of North Florida points on and north of the Jacksonville-River Junction Line. This is the section of Florida to and from which the interstate rates are upon the Southern basis and do not include the Florida arbitraries.

The second phase of my studies deals with the class rates to and from Peninsula Florida, that is, points south of the Jacksonville-River Junction Line where the class rates are based upon the so-called Florida arbitraries adedd to the Southern class rates, for the lengths of haul in Peninsula Florida. Representative points in Peninsula Florida have been selected as a basis for the studies showing the effect and influence of the Florida arbitraries. My [fol. 1794] studies, based upon Jacksonville, form a part of the picture of the Southern states as a whole.

My studies, as to Peninsula Florida, form a basis for the position of the Florida interests that the Florida ar-

bitraries are no longer practical or justified and should be removed; and that whatever basis of class rates may be prescribed for the South or between the South and the North, should include Florida as a part of the South.

Another reason why special studies have been based upon Jacksonville rates is that in August, 1939, more than three years ago, a separate complaint was filed for the Railroad Commission of the state of Florida and certain Jacksonville industries assailing the class rates from Jacksonville, as a typical North Florida manufacturing point, to destinations in Central and Illinois Freight Association territories. This complaint, called the Jacksonville Interterritorial Class Rate Complaint, was filed under Docket No. 28322, and was, I believe, consolidated, for the purpose of hearing alone, with the General Class Rate Investigation, No. 28300, et al.

Chairman Aitchison: I did not know that we made any such consolidation. Did we?

Mr. Hillyer: Mr. Chairman, it is my understanding that the case is not exactly consolidated with it, but the hearings were postponed because of this proceeding, and it was our understanding that the small, minor Jacksonville com- [fol. 1795] plaint was now swallowed up in the major investigation.

Chairman Aitchison: Perhaps practically, but we have not taken any action to that effect, have we?

My Hillyer: No, sir.

By Mr. Hillyer:

Q. Proceed.

A. Since the filing of the Jacksonville——

Chairman Atichison: Does not the witness want to withdraw this statement, then, that it was consolidated with this proceeding?

Mr. Hillyer: For practical purposes we were unable to get the case to hearing and the carriers asked for a postponement because of the pendency of this proceeding. This proceeding, of course, will dispose of the issues in that case, but the complaint is still pending.

Chairman Aitchison: It has never come to the attention of the Division in charge of this proceeding, as far as I know.

Mr. Hillyer: No. I do not think it has.

Chairman Aitchison: If the witness still wants his statement to stand that that proceeding has been consolidated with this one——

The Witness: I will correct that statement to indicate that it is my information that the issues in that case will be disposed of after the issues in this case have been disposed of. As far as the actual consolidation is concerned, [fol. 1796] I wish to withdraw that portion of it.

Chairman Aitchison: Very well. Proceed.

By Mr. Hillyer:

Q. Proceed with your statement, Mr. Maurer.

A. Since the filing of the Jacksonville Inter-ritorial Class Rate Complaint in 1939, numerous changes have occurred in the rates and ratings so that the actual rates and ratings set out in the Jacksonville complaint are subject to numerous corrections which will appear in my first series of exhibits showing the rates between Jacksonville and Central territory.

These changes which have occurred, affecting the rates set forth in the Jacksonville complaint, have ameliorated to some extent the wide disparities between the rates from Jacksonville to C. F. A. and the rates within the North on like traffic for like distances. However, basic differences remain and are substantial.

The actual class rates on given articles from Jacksonville to points in Central territory are upon substantially higher levels than the rates within the North on like traffic for like distances. The differences cannot be expressed in one composite figure because there are a number of variable elements which enter into the differences between the rates from Jacksonville to C. F. A. and the rates within the north on many, many classes of goods.

There are eight elements which inflate the Florida class rate structure above the level of the Northern class rate [fol. 1797] structure. First: The Southern Class Rate Scale, K-2 is about 40 per cent higher than the Northern or Eastern Class Rate Scale, at 200 miles. This percentage is based on first class rates for 200 miles, approximately the average haul in each territory.

Second: Some of the published class rates from North Florida to certain points within the North are actually higher than the Southern, K-2, scale. Third: Classes 4,

5 and 6 are higher percentages of first class in the South than in the North. Class 4 is 55 per cent in the South and 50 per cent in the North; Class 5 is 45 per cent in the South and 35 per cent in the North; and Class 6 is 40 per cent in the South and 27½ per cent in the North.

Fourth: Some articles which are rated the same in both classifications are given lower percentages of first class by exceptions to the classification in the North and are not accorded like percentages by exceptions in the South. Fifth: Some articles which are accorded exceptions in both classifications are given lower percentages of first class in the North than in the South. Four of these five elements may occur in the actual rates on almost any article from Jacksonville and North Florida points to points in Central territory.

In some instances elements 1 to 5 inclusive are cumulative in their effect and inflate the actual class rates from [fol. 1798] North Florida to C. F. A. territory far above the 40 per cent average difference between the Southern class scale and the Northern scale for 200 miles.

The sixth inflationary element is that some of the actual class rates within the North are lower than the Eastern scale. Another element which widens the spread between the actual class rates on given articles from Florida to Central territory and the actual rates within the North, is the fact that many actual class rates from points in the East, such as New York, New York, and Springfield, Massachusetts, to points in Central territory, such as Indianapolis, and Chicago, are actually less than under the Eastern scale.

Seventh: The Florida arbitraries further inflate the class rates between Peninsula Florida and points in the North. Wherever any of the six elements above inflate North Florida class rates to the North, the same element exists in the rates from Peninsula Florida points, which rates are further inflated by the Florida arbitraries. The rates from Peninsula Florida are inflated by one or more of the six elements above named and all of the class rates from Peninsula Florida points are further inflated by the addition of the Florida arbitraries.

The cumulative effect of these seven inflationary elements in the interterritorial class rate structure results in class rates from Florida to Central territory which bear a much higher percentage relation to the actual rates within the

[fol. 1799] North than the percentage by which the Southern first class rates exceed the Eastern first class rates. For example, the actual class rates on grass fibre from Lake Wales, Florida, to St. Louis, Missouri, are 219 per cent of the rates for like distances under the Eastern scale, 98. This does not include inflationary element No. 6, which would make the percentage higher than 219 per cent. My studies which show the effect of these seven inflationary elements have been reproduced in exhibit form and bound in one volume consisting of 112 pages.

The eighth inflationary element is that the emergency increases augment the spreads of the Florida interterritorial rates in cents per 100 pounds above the rates within the North. Throughout my rate analyses I have used the class rates which were in effect prior to the General Emergency Increase of March 18, 1942, of 6 per cent. There are two reasons for this. In the first place, all of my primary rate analyses were prepared prior to the Emergency Increase of 1942; and, in the second place, the Emergency Increases are limited to expire six months after cessation of war. The addition of the emergency six per cent increase to the rates shown in my rate analyses augments the spreads of the Southern and Florida rates in cents per 100 pounds above the rates for like distances within the North.

From my years of experience in the study of rates, traffic [fol. 1800] and transportation conditions, it is my opinion that there are no factors which enter into rate-making which could warrant the existence of class rates from Florida into the North 219 per cent or even 140 per cent of the Eastern scale for like distances.

Dr. Edwards' exhibits, showing comparative cost rate levels in Southern and Eastern territories, show that, for 200 miles, using 20-ton box cars computed under cost Level VI (6b), including cost plus full return in Southern territory, is 15.84 cents per 100 pounds; and, in the North, 17.44 cents. The Eastern cost plus level is higher than the Southern cost plus basis by 10 per cent. Operating conditions in Florida are particularly favorable and traffic originating and terminating in Florida has grown enormously since the traffic tests were made in Docket 13494 covering 1922 and 1923 upon which the Southern Class Rate Structure and the Florida arbitraries were prescribed.

It is my opinion, based upon my studies, that no longer can Florida be classified as a pioneer state—poor in traffic;

but that Florida now should constitute a part of Southern Class Rate territory as a whole; and that no higher level of class rates should prevail from the South, including Florida, to the North than applies within the North for like distances.

Q. Will you state in your opinion what has been the influence of Florida arbitraries upon the intraterritorial [fol. 1801] and interterritorial rates?

A. It is my opinion, based upon my extended experience in studying traffic and transportation in the state of Florida and the South, that the presence of the Florida arbitraries, added to the class rates, has caused a heavy diversion of rail traffic to motor carriers and water carriers; and that the unique water and trunk competitive situation in Florida is so strong that the addition of the Florida arbitraries to the rates can no longer be justified from the standpoint of practical ratemaking.

It is my further opinion that if the Florida arbitraries had not been added to the class rates as a result of the decision in 13494 the Florida carriers would have secured a large share of the millions of tons of freight traffic which have been diverted to motor and water carriers.

This view is based not only upon the studies which I have made for this particular case, but upon the parallel studies which have been made by Mr. Grady of Miami, of the Florida waterborne commerce and of Mr. Donnell's studies of Florida's motorborne commerce, greatly increased rail traffic and greatly increased population. Florida supports Mr. Jensen's recommendations that the Florida arbitraries should be eliminated. My conclusions in this respect are further fortified by certain findings of the Commission's expert, Mr. C. G. Jensen, in his Exhibit [fol. 1802] No. 7, pages 62 to 66 inclusive, in this proceeding, 28300.

Q. To what extent and in what particulars do you agree with Mr. Jensen and his findings with respect to the Florida situation?

A. Mr. Jensen is correct in his showing that Florida ranks fourth among the 8 southern states in 1940 in tons of freight originated or terminated, on page 62; that Florida ranks sixth in tons of freight per mile of railroad, page 63; and that Florida's population in 1940 over 1920 increased 96 per cent, which is more than double the increase of any other Southern state, page 64.

Mr. Jensen stated that Florida's increase in population "doubtless is less intimately connected with an increase in actual or potential freight traffic than is the increase in the other Southern states," page 64.

From my experience I wish to add to Mr. Jensen's statement that the reason for this is that there was an enormous diversion of traffic to motor carriers and water carriers during Florida's great increase in population, which accounts for the fact that Florida's rail tonnage did not increase relatively as fast as its population increased. I attribute this in part to the existence of the Florida arbitrarics.

On page 65, Mr. Jensen states that: "the revenue needs of the Florida railroads assuredly are as great now as they were in 1928, but Florida is a flat state and practically [fol. 1803] every form of freight traffic which the Florida railroads carry is vulnerable to water or highway competition or both."

The latter part of that statement is correct, but the first part of that statement, as to the revenue needs of the Florida railroads, in the fall of 1942, is not correct today as the revenue needs of the Florida railroads are substantially less than they were in 1928. With that correction I think that Mr. Jensen's statement above quoted accords with the facts as I have examined them.

Mr. Jensen recommends the abolition of the Florida arbitraries. On page 66 of Mr. Jensen's Exhibit No. 7, he states his conclusion that: "Because of competitive conditions which now confront the railroads of that state, Florida, and which they must face in the future, it is believed that the L-2 arbitraries are a source of injury rather than of benefit to them, the railroads, and it is recommended that the rates to and from Florida be placed on the same level as those to and from the states immediately to the North."

In my opinion this conclusion of Mr. Jensen's is strongly fortified by the facts and figures which have been prepared for the Railroad Commission of Florida and which are to be introduced in evidence in this proceeding. Based upon my daily experience in traffic matters in Florida ever since the addition of the Florida L-2 arbitraries, I can say [fol. 1804] without qualification that those arbitraries have been "a source of injury" to the Florida railroads.

It is my further view, based upon years of experience, that the presence of the Florida arbitraries in the class rate structure has hindered the development of manufacture in Florida; and that conditions have changed so that there is no longer any justification for the Florida arbitraries.

My view in this respect is confirmed by the decision of the Interstate Commerce Commission in the Livestock Investigation, I. & S. 4777, decided August 11, 1942. In that decision the Commission as a whole prescribed rates on livestock from Southern territory, including Florida, to points in the North on a uniform basis for Florida with other Southern states and without the addition of any arbitraries covering hauls in Peninsula Florida.

My special studies for this Investigation consist of analyses of the level of the present class rates between Florida and interstate destinations in Southern territory and Official territory; and of the effect of the Florida class rates upon traffic moving from and to Florida. My rate analyses have been bound in a single volume of 112 stencilled pages, which have been marked for identification Exhibit No. 92.

The first section of my exhibit, pages 1 to 36 inclusive, deals with the existing class rates between points in the [fol. 1805] Southeast and border states and points within the state of Florida, including Jacksonville, and other representative points within the Florida Peninsula. The main object of those analyses is to show the effect of the addition of the Florida arbitraries in the rates from or to different sections of the State. The following cities have been selected as illustrative of the state as a whole: in the Northern section, Jacksonville; in the North Central Section, Gainesville and Ocala; in the South Central Section, Orlando and Lake Wales; in the South West Coast Section, Tampa and Ft. Myers; in the Central East Coast Section, Melbourne; and in the lower East Coast Section, West Palm Beach and Miami.

The Florida arbitraries were thoroughly discussed and illustrated in the Commission's report in Docket 13494, 100 I. C. C. 513 and later supplemental reports. The Florida L-2 arbitraries are shown in a table on pages 35 and 36 of my exhibit.

The term "Florida Peninsula" relates to that portion of the state of Florida lying south of the Seaboard Air Line

Railway between Jacksonville and River Junction. The arbitraries are in effect today on interstate traffic moving on class rates between points in the Florida Peninsula and points in other sections of the country both inter- and intra-territorially. They were fixed by the Interstate Commerce Commission in Docket 13494, Third Supplemental Report, [fol. 1806] 128, I. C. C. 567, page 602. The L-2 arbitraries represent approximately 115 per cent of the K-2 scale of class rates fixed for application in the same proceeding from, to and between points in Southeastern territory on and north of the line of the Seaboard Air Line Railway from Jacksonville to River Junction, Florida.

My pages 1, 2 and 3 of my exhibit show the short-line distances between representative points in Florida and representative points in Southern and border territories. The distance- shown on these pages represent the distances arrived at on the formula laid down by the Interstate Commerce Commission in Docket 13494. They are published by the rail carriers in their various tariffs as rate basis numbers and are designed to represent the shortest available distances over which carload traffic may be handled without transfer of lading.

The tariffs from which the rate basis numbers or distances were taken are shown on page 3. The distances and the rate basis numbers shown in this statement are used throughout the pages of my exhibit dealing with rates between Florida points and Southeastern and border points.

My pages 4, 5 and 6 show the short line distances and the present class rates from 1 to 12, inclusive, between Jacksonville, Florida, and 19 representative Southern, Southeastern and border points. Here the carriers used the [fol. 1807] short-line distances over which carload freight could be handled without transfer of lading and applied the mileage, so arrived at, to the straight prescribed Docket 13494 K-2 class rate scale. As indicated in the right-hand portion of pages 5 and 6, the totals of the rates under the 12 classes are the same, whether based upon the rates actually published or whether based upon the K-2 mileage scale. There is no excess in the present rates from and to North Florida over the K-2 scale. In connection with this showing I call your attention to the fact that here the carriers used the short-line distances and applied the mileage so arrived at to the straight prescribed K-2 scale. There is no excess

in the present rates from and to North Florida over the K-2 scale.

The situation illustrated by pages 4, 5, and 6 covering Jacksonville, is the same respecting all points on and north of the line of the Seaboard Air Line Railway between Jacksonville, and River Junction. In other words, that line of the Seaboard Air Line Railway marks the Southern boundary of the flat K-2 scale as applied within Southern territory. The Florida arbitraries do not become a part of the rate structure until a haul south of that boundary is involved.

The effect of the Florida arbitraries, upon the total rates, increases as the distances hauled south of the [fol. 1808] Jacksonville-River Junction line increase. This effect is illustrated by a series of pages showing the rates first from Gainesville, a representative point in the Florida Peninsula, just south of the Jacksonville-River Junction line and continuing down the state as far south as Ft. Myers on the west coast and Miami on the east coast.

The rates from Gainesville, Florida, to 19 representative Southeastern and Southern border points are shown on pages 7, 8 and 9 with rates for like distances under the K-2 scale. Those pages of the exhibit also show the aggregate of the rates under the various classes and the aggregate amount in cents by which the actual rates from Gainesville exceed the aggregate of the rates for like distances under the K-2 scale. The final vertical column to the right shows the percentages by which the actual rates, including the Florida arbitraries from Gainesville to those 19 points exceed rates for like distances under the K-2 scale.

For example, from Gainesville to Macon the addition of the Florida arbitraries for the haul up to the Jacksonville-River Junction line results in an increase of 8 per cent in the total rate over the rate for that distance under the K-2 scale. The difference in the first class rate in this instance due to the addition of the Florida arbitrary is 11 cents per 100 pounds.

The percentages of excess of the actual rates to Gainesville [fol. 1809] over the K-2 scale are by no means constant. They vary depending upon the length of haul north of the Jacksonville-River Junction line, which is not subject to the Florida arbitraries, and also upon that portion of the haul within the Florida Peninsula, which is subject to the Florida

arbitraries. Thus the percentages of excess range from 4.5 per cent in the rates between Louisville, Kentucky, and Gainesville, Florida, to 8 per cent in the rates between Macon, Georgia, and Gainesville, Florida.

Pages 10, 11 and 12 are similar analyses of the class rates between Ocala, Florida, and the same Southern points. The Ocala rates exceed the K-2 scale by percentages ranging from 5.6 per cent to 9.3 per cent.

In the column headed "Miles", attention is directed to the fact that in no case is the suffix letter the same as the suffix letters used in connection with the pages covering Gainesville. This is accounted for by the fact that between points in Southern territory and points within the Florida Peninsula the short-line distance is not always arrived at via the same junction, and entails a longer or shorter haul within the Peninsula, depending upon the Southern point under consideration. In other words, on a shipment moving from Mobile, Alabama, to Ocala, Florida, the short-line distance is 495 miles, which is subject to arbitraries within [fol. 1810] the Peninsula governed by suffix L, while on shipments moving from Atlanta, Georgia, the distance of 389 miles is governed by Suffix G, which indicates that the haul within the Peninsula of Florida on a shipment moving via the short-line route from Mobile, Alabama, is greater than the haul within the Peninsula on a shipment moving from Atlanta, Georgia. This accounts for the somewhat greater excess in the total of the 12 classes from the points covered by suffix L than the total of the 12 classes in connection with rates covered by suffix G, which is the suffix generally governing the Gainesville distances and of course the Gainesville rates.

Pages 13, 14 and 15 make similar comparisons of present rates on classes 1 to 12 inclusive between Orlando, Florida, a central Florida representative point, and the same southern and border points. Here the amounts of excess in the 12 actual published class rates over the K-2 scale range from 78 cents to 93 cents and the percentages range from 6.7 per cent to 12 per cent.

Pages 16, 17 and 18 show similarly the rates between Lake Wales, Florida, and the same southern and border points. Lake Wales is a South-Central Florida point, and is approximately 201 miles south of Jacksonville within the Florida Peninsula. Not all of the traffic between Lake

Wales and the points shown would move through Jacksonville.

The percentages by which the L-2 arbitraries inflate the [fol. 1811] K-2 scale rates range from 5.9 per cent to 10.6 per cent. In other words, on a shipment moving between Lake Wales, Florida, and Mobile, Alabama, based upon any of the class rates, 1 to 12 inclusive, the applicable rates under the present method of publication, would be approximately 10.6 per cent higher than if the same movement for a distance of 508 miles had taken place outside of Peninsula Florida and within Southern territory.

Pages 19, 20 and 21 show similarly the rates between Melbourne, Florida, a central east coast point, and the same southern and border points. At Melbourne the percentages of excess range from 6.8 per cent to 10.5 per cent. Pages 22, 23 and 24 show similarly the rates between Tampa, Florida, and the Southern and border points. The percentages of excess over the K-2 scale range from 7 per cent to Cincinnati to 11.2 per cent to Montgomery, Alabama. Pages 25, 26 and 27 show similarly the present rates between Fort Myers and the same Southern and border points. Fort Myers is approximately 292 miles south of Jacksonville-River Junction line on traffic moving through the Jacksonville gateway. The percentages of excess over the K-2 scale range from 7.8 per cent to 12 per cent. Representative of the lower east coast section is the showing made in pages 28, 29 and 30 from West Palm Beach, Florida, 299 miles south of Jacksonville on traffic moving through the [fol. 1812] Jacksonville gateway. The percentages of excess range from 8.3 per cent to Cincinnati and 12.1 per cent to Macon. Pages 31, 32 and 33 show similarly the rates between Miami, Florida, and the same Southern and border points. On a shipment moving between Cincinnati, Ohio, and Miami, Florida, the class rates for 1156 miles would be approximately 8.9 per cent higher than the rate on a similar shipment moving entirely within Southern territory.

On a shipment moving between Macon, Georgia, and Miami, Florida, the class rate would be 112.6 per cent of the rate on a similar shipment moving for the same distance of 593 miles between points outside of Peninsula Florida and wholly within Southern territory.

The pages that have been discussed are representative of the class rate structure which has existed since the publication of rates following the Interstate Commerce Commis-

sion's decision in Docket 13494. In other words, since January 15, 1928, the date upon which the Commission's uniform basis of class rates within Southern territory became effective shippers and receivers located within the Peninsula of Florida have had to pay more per mile for transportation of their goods than shippers and receivers located within Southern territory, excluding the Florida Peninsula. The amounts of excess contained in the rates to and from the Florida Peninsula are shown to range from 5 per [fol. 1813] cent to approximately 12 per cent. As previously explained, the amounts of excess vary according to the total distance, the distance north of the Jacksonville-River Junction line and the distance south of the Seaboard Jacksonville-River Junction line.

From my knowledge of the traffic between Peninsula Florida points and the Southern territory, I can state definitely that the presence of the Florida arbitraries in the interstate rates between Peninsula Florida points and points in other Southern states has actually resulted in the diversion of a vast amount of high grade class traffic from the railroads to other modes of transportation, particularly the motor common carriers, contract carriers and private motor vehicles.

Some years ago after the Florida arbitraries were tacked on to the rail class rates, the motor common carriers and motor-water common carriers in Florida succeeded, in a proceeding before the Railroad Commission of Florida in having the Florida arbitraries taken off the motor class rates. Soon thereafter the railroads in Florida voluntarily removed the Florida arbitraries from the Florida intrastate class rates, classes 1 to 7 inclusive, thus recognizing the impracticability of continuing the Florida arbitraries on rail Florida intrastate traffic while no such arbitraries were added to the K-2 scale by the motor or motor-water [fol. 1814] carriers.

It is my opinion that the failure of the carriers to remove the Florida arbitraries from interstate traffic between Florida and the South, voluntarily, as they removed the Florida arbitraries from Florida intrastate commerce, "has been a source of injury to the rail carriers" as stated in the testimony of Mr. Jensen, the Commission's expert, at page 66 of his Exhibit No. 7.

Pages 34, 35 and 36 of my exhibit show in detail the Florida K-2 arbitraries, for each of the classes and for

various mileage blocks, which were prescribed by the Interstate Commerce Commission, plus the General Increase of 10 per cent under Ex Parte 123.

Prior to June 15, 1928, there were no through class rates published between points in Florida and points in other states. All rates were made on a combination basis. As to traffic moving from key points in Southern territory, the rates were based upon the combination of local or proportional factors to and from Jacksonville. On traffic moving from points in other territories the rates were generally based upon combination over either the Ohio and Mississippi River gateways, or the Virginia gateways.

Thus on shipments moving from Florida points to a point in Central territory, such as Chicago, Illinois, the class rates would be ascertained up to Jacksonville, the factor [fol. 1815] between Jacksonville and the Ohio River gateways would be determined, and these two factors combined with the factor beyond the gateways to the final destination. It is true that this method was extremely complicated and unsatisfactory in so far as the shipping public was concerned in determining through rates from and to Florida.

In its report in I. C. C. 13494, the Commission condemned the combination method of constructing rates into Florida and in the original report, 100 I. C. C. 513, fixed rates between points in the Florida Peninsula and points in other territories by use of the same method as employed in fixing rates between Southeastern territory and points in the Southeast and other territories, except, however, with respect to Florida the Commission gave consideration to the traffic density and financial condition of the Florida carriers and prescribed the use of arbitraries in order that the reductions reflected under the new scheme of rates on traffic to and from Florida would be somewhat modified. In the original proceeding the Commission fixed arbitraries based upon approximately 110 per cent of the scale prescribed for standard application within Southern territory. However, after further hearing the Commission increased the measure of the arbitraries to 115 per cent of the revised Southern class scale. As pointed out, this revision was covered by the Third Supplemental Report, 128 I. C. C. 567. [fol. 1816] At the time the Commission received testimony and evidence in Docket 13494, Florida was going through a period of great expansion. New railroad lines were in process of construction and rapid industrial devel-

opment was taking place. In commenting upon this the Commission stated that while this development constituted a reason for departing from the old practice of making rates to and from the Peninsula of Florida on the Jacksonville combination, it also provided a reason for proceeding cautiously with any change in this practice, and that any heavy reduction in railroad revenues might discourage much needed construction. Continuing its consideration the Commission at pages 623, 624 and 625 of 128 I. C. C. stated that taking all of the circumstances and conditions into consideration, it was of the opinion that rates to and from the Florida Peninsula for the present may well be on a somewhat higher level than in other parts of Southern territory.

From the last statement taken from the Commission's Third Supplemental Report, it is my opinion that the Commission did not intend to penalize the state of Florida forever because of its lack of overhead traffic and traffic density prior to the year 1925, but rather fixed the Florida arbitraries on a temporary or tr. sitional basis awaiting the outcome of the railroad and industrial expansion which was taking place within the state at that time.

[fol. 1817] Pages 34, 35 and 36 show the first-class column 100 arbitraries prescribed by the Interstate Commerce Commission for application in the construction of class rates to, from and between points in the Peninsula of Florida lying south of the Seaboard Air Line Railway Jacksonville-River Junction line.

Attention is directed to the left-hand column on pages 34 and 35 which shows the suffix letter used in connection with the rate basis numbers covered by the preceding pages of this exhibit. Each of the suffix letters represents a distance within the Florida Peninsula and these distances are shown in the second column of the statement. In the third column the originally prescribed first-class L-2 arbitraries are shown and in the fourth column the prescribed first class arbitraries increased 10 per cent under Ex Parte 123 are set out. In prescribing the class rate arbitraries the Commission did not undertake to prescribe arbitraries for classes other than first class column 100. The arbitraries for the other classes were worked out on the same percentage relationship to first class that was fixed by the Commission in connection with the class rates for application

within Southern territory generally. In this statement the arbitraries have been carried through all of the classes from 1 to 12 inclusive, for all of the prescribed distances from 1 mile to distances over 500 miles. The arbitraries [fol. 1818] thus shown represent the actual amounts by which the K-2 plus L-2 basis of rates from and to Florida Peninsula points exceed the class rates for the same through distance had they been based upon the flat K-2 scale.

Conditions upon which the addition of Florida arbitraries were prescribed have been substantially changed so that in my opinion there is no longer any warrant for the continuation of the Florida arbitraries.

My sheets 37, 38, 39, 40 and 41 show the column 100 Eastern first class mileage scale of rates prescribed by the Interstate Commerce Commission for application in determining the class rates intraterritorially between points in Official territory compared with the scale prescribed intraterritorially between points in Southern territory.

The rates shown in the column headed "Eastern Class Rate Scale" are the rates prescribed by the Commission in Docket 15879, 164 I. C. C. 467, Appendix E, while the rates shown under the column headed "Southern Class Rate Scale" are the K-2 first class scale of mileage rates prescribed for application between points in Southern territory in the Southern Class Rate Investigation, Docket 13494, 113 I. C. C. 207.

In connection with the scale of rates shown under Southern Class Rate Scale column it should be pointed out that the rates shown are those that were in effect prior to July 7, [fol. 1819] 1941, and do not give effect to some slight modifications made in connection with rates for distances up to 190 miles.

In the third column of this statement I have shown the amounts in cents per 100 pounds by which the Southern Class Rate first class scale exceeds the first class scale applicable under the Eastern Class Rate Case, while in the extreme right-hand column I have shown the percentages by which the Southern Class Rate scale exceeds the Eastern Class Rate scale in the first class rates.

It will be noted that in the lower reaches of the scale the Southern Class scale exceeds the Eastern Class Rate scale first class rates by 12 per cent. The excess, Southern over Eastern, increases as the distance increases up to 420

miles at which point the first class rate of 160 cents under the K-2 Southern Class Rate scale exceeds the rate of 111 cents under the Eastern Class Rate scale by 49 cents per 100 pounds, which represents an excess of 44 per cent, Southern over Eastern Class Rate scale. Stated differently, at 420 miles the Southern Class Rate scale is 144 per cent of the Eastern Class Rate scale. From 420 miles on down through the scale the percentage excess Southern over Eastern very gradually diminishes until at 1,500 miles, which represents the maximum distance for which rates were prescribed in both the Eastern and the Southern Class [fol. 1820] Rate cases, the 315 cents first class rate under the Southern scale exceeds the 237 cents first class rate under the Eastern Class Rate scale by 78 cents, which represents an excess, Southern over Eastern, of 32½ per cent.

As already stated, the Commission did not prescribe rates in either the Southern or the Eastern case for distances in excess of 1,500 miles. However, for the purpose of this exhibit I have progressed the scale for distances up to 1,800 miles by observing the same rate of progression that was observed in the prescribed scale for the mileage blocks over 1,400 miles.

In consideration of the showing made in this statement, it should be borne in mind that this statement applies only in connection with the flat K-2 scale and does not take into consideration the additional arbitraries which are added on traffic moving to or from the Florida Peninsula. Had it been possible to devise some means of showing a scale which would give consideration to the additional Florida arbitraries it is obvious that the excess in amounts and percentages shown in the two right-hand columns of the statement would be substantially increased.

Many actual class rates from North Florida to Northern points actually exceed the rates for like distances under the K-2 scale. In its decision fixing class rates within Southern territory, the Interstate Commerce Commission prescribed [fol. 1821] for uniform application, except for short or weak lines, and the Florida Peninsula, the K-2 scale of class rates.

Between Southern territory and points in Central territory the Commission did not prescribe a through mileage scale but instead authorized the establishment of through rates published as single amounts but determined by combining the first-class rate prescribed for intraterritorial

application between the points of origin or destination in Southern territory and the Ohio River gateways with the addition of a first class differential determined in the manner provided in Appendix Q-1 of the report for the distance between the points of destination or origin in Official territory and the same Ohio River gateways.

Other classes were related to first class in the same manner and by the same percentage relationship as the other classes were related to first class under the K-2 Southern Class Rate scale.

There was no indication anywhere in the Commission's report that this method of constructing rates was intended to bring about interterritorial rates that would exceed rates constructed by use of the K-2 scale applied for the through distance from origin to destination. However, that is exactly what happened with respect to rates from or to North Florida points. It is my opinion that the Commis-
[fol. 1822] sion did not intend that the carriers should publish through all-rail rates from Jacksonville, for example, to points in Central territory which would exceed the level of rates prescribed interterritorially within the South. The fact that a substantial portion of the through haul involves transportation through the lower rated northern territory warranted through interterritorial rates lower than the K-2 scale.

Pages 42 through 46, inclusive, show the published class rates 1 to 6, inclusive, between Jacksonville, Florida, and 16 representative points in Official territory west of the Buffalo-Pittsburgh line. In addition to the first class rates the statement shows the short-line distances and the rates that would have resulted for each of the 6 classes had the carriers observed the K-2 scale as a maximum in publishing interterritorial rates from the South to points in Central territory. The amounts by which the published first class rates exceed the rates that would have resulted from the application of the K-2 scale as maximum are shown in connection with each of the classes. The total of the 6 classes, both under the published rates and the K-2 scale, and also the total amount by which the published rates exceed the K-2 scale for all of the classes are also shown to each destination.

On traffic moving between Jacksonville and Chicago, the
[fol. 1823] K-2 scale, if observed as a maximum scale, would produce rates 4 cents per 100 pounds lower than the

actual published rates on classes 1 and 2; 3 cents per 100 pounds lower on classes 3 and 4; and 1 cent per 100 pounds lower on classes 5 and 6. The total amount by which the published class rates exceed the K-2 scale rates on all 6 classes is shown as 16 cents in the right-hand column of the statement.

Similar comparisons appear throughout this statement. Attention is directed to the amounts by which the K-2 scale is lower than the published rates on first-class rates to Cleveland, Ohio, where the K-2 scale produces 6 cents lower, Dayton, Detroit, Ft. Wayne, and Grand Rapids, where the first-class rate under the K-2 scale is 7 cents per 100 pounds lower than the published rate and Hamilton, Ohio, and Indianapolis, Indiana, where the published rates exceed the first-class rates based upon the K-2 scale by 8 cents.

The maximum amount of excess of the published rates over K-2 is, in connection with the rates to Hamilton, Ohio, where the first class published rate exceeds the K-2 rate by 8 cents per 100 pounds; second class, 6 cents; third class, 6 cents; fourth, fifth and sixth classes, 4 cents; or a total of 32 cents on the total of the 6 classes.

It is my opinion that the Interstate Commerce Commission in the Southern Class Rate Investigation never intended that the class rates from Jacksonville to cities in [fol. 1824] Central territory should exceed the class rates under the K-2 scale. Many class rates from Peninsula Florida to the North exceed the K-2 scale plus the Florida arbitraries.

My next pages, 47 to 56, inclusive, show the effect of the differences resulting from the application of the Q formula versus the K-2 formula when the Florida arbitraries are added to the interterritorial class rates from points located within the Peninsula of Florida to the North.

Pages 47 through 51, inclusive, show the published class rates, 1 to 6 inclusive, between Lake Wales, Florida, and representative points in Official territory west of the Buffalo-Pittsburgh line. The statement shows the actual rates published by the carriers following Docket 13494 in comparison with the Docket 13494 K-2 scale rates for the same distances.

This statement also shows the amounts in cents by which the published rates exceed the K-2 scale for the 6 classes. The statement also shows the total of the 6 classes, under the actual rates and under the K-2 scale; the excess in the

total; and the percentages by which the published rates exceed the K-2 scale rates.

In considering this statement and the showing made therein, it will be necessary to take into consideration the fact that the excesses are somewhat greater than in the case of Jacksonville, Florida, by reason of the fact that in the [fol. 1825] published rates the Florida arbitraries for that portion of the haul lying south of the Seaboard Air Line Railway, Jacksonville to River Junction, have been added. In other words, the excess is brought about not only from the failure to employ the K-2 scale for the entire distance, but also from the inclusion in the through rates of the arbitraries that the Commission provided for the hauls within the Peninsula. It will be noted that the percentages, by which the published rates exceed the flat K-2 scale, range from 7.5 percent between Lake Wales and Milwaukee to 40 per cent between Lake Wales and Hamilton, Ohio.

Stated differently, on a shipment rated first class moving between Lake Wales and Detroit, Michigan, for example, the published rate is 305 cents per 100 pounds whereas the rate based upon the application of the flat K-2 scale for the 1220 miles would have been 278 cents. In this instance the first class rate is 27 cents per 100 pounds higher than the first class rate resulting from the application of the K-2 scale. This 27 cents is composed of the Florida arbitrary of 18 cents plus 9 cents, which represents the amount by which the actual first class rate to Detroit exceeds the K-2 plus L-2 rates for that distance. Similar examples of these pyramiding effects are observed throughout the statement.

Pages 52 to 56 inclusive, is a similar study of class rates [fol. 1826] 1 to 6 inclusive, between Miami, Florida, and the same representative points in Official territory.

Miami has been selected as a representative South Florida point. Miami is 366 miles south of Jacksonville via the Jacksonville gateway. This series of pages shows the further effect of pyramiding and compounding of Florida Peninsula rate disparities as the distances within the Peninsula increase.

These pages show that the percentages, by which the published class rates exceed the rates based upon the through K-2 scale, range from 8.8 per cent in the case of Milwaukee, to 11.5 per cent in the case of Hamilton, Ohio, and Indianapolis, Indiana. In other words, on traffic moving between Miami, Florida, and the points shown in this state-

ment, the rates applicable are from 8.8 per cent to 11.5 per cent higher than the rates would be for a similar movement entirely within Southern territory, if the distances within Southern territory would permit such a comparison to be made.

Again illustrating, on a shipment between Miami and Hamilton, Ohio, freight charges computed on first class rate would be based upon a rate of 307 cents per 100 pounds, which is the published first class rate between the points in question. If, however, the flat K-2 scale had been employed, a rate of 32 cents per 100 pounds lower, or 275 cents would have resulted.

[fol. 1827] From my study of the rate and transportation conditions existing between Florida points and points in other territories, it is my conclusion that the Florida arbitraries, plus the high level of actual interterritorial class rates, which exceed the K-2 basis, have been a very important factor in the rapid development of Florida's water, water-rail and rail-water traffic. My conclusion is supported by the fact that under normal conditions a vast tonnage of various commodities moves to and from Florida via rail-water routes which do not employ a single southern territory rail carrier.

Rates on many important commodities are constructed on a combination basis through the North Atlantic ports on basis of 110 per cent of the combination via the North Atlantic ports, subject to some minimum rate provisions. The Fourth Section Case I have in mind was the order issued in Docket 13918, F. S. O. 11029.

What has been stated here with respect to traffic moving from Central territory to Florida points via the North Atlantic ports is also true, perhaps to a somewhat lesser extent, in connection with traffic moving via rail-water through New Orleans or barge-water through New Orleans to Florida. A great amount of tonnage has been handled via the routes in question in preference to all-rail routes due solely to the high level of the rates to and from points in the [fol. 1828] Florida Peninsula.

My next series of pages, 57 to 71 inclusive, consists of comparisons between the actual published class rates 1 to 6, inclusive, from Florida to northern cities with rates for like distances under the I. C. C. Docket 15879 Appendix E or Eastern scale.

Pages 57 through 62 show the published class rates, 1 to 6 inclusive, between Jacksonville, Florida, and representative points in Official territory. These pages also show the rates which would result from the application of the Docket 15879 Appendix E class rate scale applied to the short-line distances. In addition, the statement shows the amounts in cents by which the published class rates between Jacksonville and the northern points exceed the rates based upon the Docket 15879 scale; and also the percentages which these excesses are of the published K-2 Q-1 formula rates.

In the extreme right-hand column of pages I have shown the total of the 6 classes under the published rates; also the total of the 6 classes had the Eastern scale within Official territory been applied between Jacksonville and the points shown; also the total excess in the Southern actual basis versus the Eastern scale basis; and the percentage excess of the Southern over the Eastern scale level.

This series of pages shows that between Jacksonville, Florida, and the points shown, the excesses in actual first-
[fol. 1829] class rates range from 66 cents per 100 pounds, Jacksonville to Columbus, Ohio, to 76 cents per 100 pounds, Jacksonville to Grand Rapids, Michigan. The percentages by which the published Southern first class rates from Jacksonville exceed the Eastern scale level range from 37 per cent to Akron, Ohio, and Youngstown, Ohio, to 44 per cent in the case of Hamilton, Ohio.

At the head of each column of rates on pages 58 to 76, inclusive, I have shown the percentage relationships which classes 2 to 6 under the Southern K-2 Docket 13494 bear to the first class rates, and the like percentage relationships which classes 2 to 6, inclusive, under the Eastern scale bear to first class.

The second and third classes in both Official and Southern territory bear the same relationship to first-class; second classes in both Southern and Official territories are 85 per cent of first; and third classes in both territories are 70 per cent of first class. Classes 4, 5 and 6 bear different relationships to first class in the two territories. The contention has been made by others that no direct comparison should be attempted between the fourth, fifth and sixth class rates in the two territories. This contention can be answered by stating the fact that there are many articles rated fourth class in both territories, others fifth class in both territories;
[fol. 1830] and others rated sixth class in both territories.

Therefore, wherever the article rated class 4, 5 or 6 in Southern is also rated the same in Official, the comparisons shown on my pages 57 to 71 inclusive are apt and proper.

These comparisons show to my mind that there is compelling need for uniformity in percentages which the respective classes, lower than first, bear to first, in both territories. The difference in percentage ratings of numbered classes in the two territories have the effect of augmenting the disparities between the rates from the South into the North and the rates within the North for like distances. For example, on page 58, the first class rate from Jacksonville to Dayton, Ohio, is 42 per cent higher than the first class rate under the Eastern scale. On fourth class the South's disability is 56 per cent. On fifth class the South's disability is 83 per cent; and on sixth class the South's disability is 109 per cent. In other words, the sixth class rate from Jacksonville to Dayton, 96 cents, is two hundred nine per cent of the sixth class rate of 46 cents under the Eastern scale. Such spreads are even greater where the actual sixth class rates in the north are lower than the Eastern scale.

My pages 63 to 66, inclusive, show the amounts and percentages by which the rates from Lake Wales to representative northern cities exceed the rates under the Eastern [fol. 1831] Scale for like distances, under classes 1 to 6 inclusive, respectively; also the percentages which the total excess of the 6 classes bear to the like totals under the Eastern scale. The total percentages range from 56 to 62 per cent.

From Lake Wales to Hamilton, Ohio, the first class rate exceeds the Eastern scale by 50 per cent; the fourth class exceeds the Eastern by 66 per cent; the sixth class rate exceeds the Eastern scale by 120 per cent. In other words, the sixth class rate from Lake Wales to Hamilton, Ohio, is 220 per cent of the rate under the Eastern scale.

My pages 67 to 71 inclusive are similar comparisons in rates from Miami to the principal cities in Central territory. The first class rates from Miami to Indianapolis exceed the Eastern scale by 105 cents; the first, second and third class rates exceed the Eastern scale by 50 per cent; the fourth class rate exceeds the Eastern scale fourth class rate by 65 per cent; the fifth class rate exceeds the Eastern scale fifth class rate by 93 per cent. The total rates of the six classes exceed the Eastern scale by 62 per cent. The

sixth class rate exceeds the Eastern sixth-class rate by 121 per cent. In other words, the sixth class rate from Miami to Indianapolis is 221 per cent of the Eastern Sixth class rate.

My pages 72 to 76, inclusive, show the first class rates from Jacksonville to central cities, with revenues per ton [fol. 1832] mile, compared with the actual first class rates and revenues from eastern cities to the same destinations in Central territory. On page 74, for example, the distance from Richmond, Virginia, to St. Louis, Missouri, 908 miles, is practically the same as the distance from Jacksonville to St. Louis. The Jacksonville rate yields 53.5 mills per ton mile. The rate from Richmond yields 37.2 mills per ton mile. The revenue from Jacksonville is 44 per cent higher than Richmond.

These pages also show that there is a marked diminution of ton mile revenues as distances increase in the North, under the actual class rates, in accord with the well-known principle in ratemaking. For example, the rate from Baltimore to Akron, page 73, 429 miles, yields 52.3 mills per ton mile for this short haul; and the rate from Boston to Milwaukee, 1050 miles, yields 32.2 mills. Here the ton mile revenues diminish normally with the increased length of haul. But from Jacksonville to South Bend, 1031 miles, the revenue is 50.6 mills. It should not exceed the revenue from Boston to Milwaukee of 32.2 mills.

These comparisons show to my mind that the ton mile revenues under the rates from North Florida to Central territory are excessive in comparison with the ton mile revenues under the actual class rates from eastern cities to the same destinations for like distances.

[fol. 1833] My next series, pages 77 to 99 inclusive, are studies of the differences between the class rates from Florida to the North and the rates within the North which arise from differences in the percentage relationships to first class, and in the exceptions to the classifications. In many instances the differences in percentages of first class, and differences in exceptions, lower in the North and from Florida to the North, augment the spreads between their rates and ours over and above the differences which appear in the actual first class rates.

My page 77 shows the percentage relationship which each class bears to first class in Official and in Southern territory. Pages 78 to 99 inclusive show illustrative clas-

sification items, with the descriptions of the articles, in part, the ratings in Official and Southern, the exceptions, and the equivalent classes or percentages of first class in the two territories; with special remarks in the last vertical column. In some instances the ratings are the same in the two territories. In some instances, such as Abrasives, page 80, the articles take exceptions which produce the same percentages of first class in the two territories. For example, abrasive wheels take class 4 by exception in Southern, which is 55 per cent of first class; and 55 per cent by exception in Northern.

On automobile parts, the ratings are the same on 148 items, two are lower in Southern, but on carloads, 65 items [fol. 1834] are lower in Official, 71 are the same and 19 lower in Southern. As to some items, the lower ratings are the same in the two territories, a situation to which I have referred before. For example, certain automobile parts and accessories are rated fifth class in carloads in Southern and Official, page 84. Certain plastics are rated class 4 in carloads in both territories, page 86. Certain fibres are rated class 5 in both territories, page 98. Lime nitrogen in carloads is rated class 6 in both territories. This item No. 10965 in the Classification does not appear in my pages.

Other articles, such as ammunition in carloads, under certain descriptions are rated class 5 or 45 per cent in Southern and 37½ per cent of first in Official; and other kinds of ammunition are rated class 6 or 40 per cent of first in Southern and 37½ per cent in Official. In my opinion these differences in ratings and exceptions where the rates within the North make lower than from Florida to the North, ought to be ironed out and made uniform.

My pages 96 to 90 inclusive illustrate the effect which differences in classification percentages in ratings and exceptions have upon the going rates on particular articles which move at class rates, using rates from Lake Wales as a representative Florida Peninsula point to destinations in Central territory.

For example, on small arms ammunition, in carloads, [fol. 1835] between Lake Wales and Akron, Ohio, the ratings are equivalent percentages in the two classifications, but by exception the rate from Lake Wales is class 5 or 45 per cent of first class, and by exception in the North the rate is 32½ per cent of first class. The resulting

rate is 135 cents from Lake Wales, and 67 cents under the Eastern scale for that distance; and these differences in the exceptions to the classification augment the Florida disabilities greatly. The rate from Lake Wales is 102 per cent of the rate for that distance under the Eastern scale, page 97. In other words, the class rate, by exception to the classification on small arms ammunition in carloads between Lake Wales and Akron is 202 per cent of the rate on like traffic for like distances under the Eastern scale. This difference would be augmented where actual rates in Official are lower than the Eastern scale.

On grass fibre, carloads, from Lake Wales to St. Louis, Missouri, the actual class rate would be 219 per cent of the rate for like distances under the Eastern Scale, page 98. On matches, in carloads, the actual class rate between Lake Wales and Chicago is 165 per cent of the rate for like distances under the Eastern Scale.

Many actual first class rates between important cities in Official territory are less than the Eastern Scale rates for like distances. In my exhibits I have used, in most cases, comparisons with the Eastern Scale rates instead of [fol. 1836] actual class rates in the North, due to the inconvenience in selecting actually equidistant points in all cases to compare with the distances from Florida points to Northern points. In such comparisons consideration should be given to the fact that many of the actual class rates between important Northern cities are actually less than the rates for like distances under the Eastern scale. Such comparisons are shown in my pages 100 to 103, inclusive. These spreads, first class actual rates under the Eastern Scale, range from 1 to 20 cents per 100 pounds.

The distance from Jacksonville to Chicago is 1061 miles and the first class rate of 263 cents is 4 cents over the K-2 scale, whereas from Boston to Milwaukee, for 1050 miles, nearly the same distance, the actual first class rate of 169 cents is 18 cents less than the Eastern scale. The Jacksonsville rate is 94 cents higher and 55.6 per cent higher.

The present class rate structure handicaps the development and expansion of high-grade industries in Florida. While Florida is not generally classed as an industrial state, there are within the state numerous small scale industries which heretofore have been stifled by the inability to reach important Northern consuming or manu-

facturing points with their products on a basis which would enable them to meet competition within that terri- [fol. 1837] tory. In my next series of pages, a few of these typical industries will be dealt with.

Pages 104 and 105 cover the rates on palm or palmetto brush fibre from Jacksonville, Otter Creek and Benson Junction, Florida, actual established Florida producing and shipping points, to representative Central points of consumption. The palm fibres shipped from Florida are used in the manufacture of brushes and compete actively with similar competitive fibres which are shipped from New York to the same destinations. For the purpose of comparison, the rates from New York to the same destinations are also shown.

The rates from Florida points are the full third class rates, without arbitraries so far as Jacksonville is concerned, but including Florida arbitraries so far as Otter Creek and Benson Junction, Florida, are concerned. In all instances the actual rates exceed, by substantial amounts, rates based upon the Eastern scale, applicable intraterritorially within Official territory. The present rates from Florida points exceed the rates under the Eastern Scale by amounts ranging from 50 cents to 66 cents per 100 pounds and by percentages ranging from 38 per cent to 47 per cent.

The disadvantages of the Florida shippers are further increased by the application of import class rates from New York. These import rates are actually lower than the Eastern Scale by amounts ranging from 9 to 12 cents [fol. 1838] per 100 pounds, or percentages ranging from 7.5 per cent to 12.9 per cent. The statement shows that, for a haul from Benson Junction, Florida, to St. Louis, a distance of 1029 miles, the present rate exceeds the rate for a similar haul from New York to St. Louis, 1027 miles, by 58½ per cent.

Pages 106 and 107 of my exhibit deal with the finished fibre brushes which are manufactured in Florida and shipped in competition with brushes manufactured in Official territory. This showing similarly depicts the overwhelming disadvantages that Florida manufacturers must seek to overcome to enable them to compete on the finished products with manufacturers in Northern territory. From Benson Junction to St. Louis, Missouri, for example, the handicap in the rate is 48½ per cent over New York.

Page 108 shows the class 3 rates on candied crystal-ized or glazed citrus fruit from Davenport, Florida, to representative Southern cities, with the amounts in cents, and percentages by which the actual rates exceed the K-2 Southern Scale. The excess in rates ranges from 11 to 14 cents and the actual rates range from 7 to 11 per cent higher than the K-2 scale.

This exhibit could have been expanded to cover points in Official territory, but the rates would be practically the same as those shown on the previous page, 105 for palm fibre, from Benson Junction, which are also class 3. [fol. 1839] On the crystal-ized fruit the rates from Davenport to central territory would exceed the Eastern Scale rates for like distances by about 47 per cent. There is a plant at Davenport which specializes in the manufacture and distribution of candied citrus fruit.

There is a manufacturer of rattan furniture located at Tampa, Florida. This manufacturer produces furniture similar in nature to certain kinds of furniture produced at Gardner, Massachusetts. There is also a manufacturer of bedroom and dining room furniture located at Palatka, Florida.

Pages 109 and 110 of my exhibit illustrate the rate handicap or disadvantages facing the Florida furniture manufacturers in attempting to reach northern markets in competition with producers located within Northern territory. The rates from Tampa and Palatka range from 26 to 32 cents higher and 20 per cent to 24 cent higher than the rates on like traffic for like distances under the Eastern scale.

On the other hand, the rates from Gardner, Massachusetts, to the same respective destinations, for like distances, are in all instances but one less than the Eastern Scale. The rate from Palatka to Chicago, 1102 miles, exceeds the rate from Gardner, Massachusetts, to St. Louis, 1119 miles, by 29 cents, or 21½ per cent.

Pages 111 and 112 deal with the rates on cigars from Jacksonville and Tampa, Florida, compared with the rates [fol. 1840] from New York, New York, to points in Central territory. As shown on the top of page 112, cigars are rated 2nd class in the Southern Classification and 1st class in the Official Classification. Exceptions to the Official Classification, however, provide for the application of 2nd class rates within Official territory. Thus the actual

rates in both Southern and Official territories are on the same percentage relation to 1st class, that is, 85 per cent of Column 100 rates.

From Jacksonville and Tampa the actual 2nd class rates exceed the rates made by use of the through K-2 scale and rates from both points are substantially in excess of the rates that would result under the through application of the Eastern Scale 2nd class rates.

The amounts by which the present actual rates exceed the rates based upon the 2nd class Eastern rates range from 60 cents to 81 cents per 100 pounds, and the percentages by which the actual rates exceed the 2nd class Eastern rates range from 38 per cent to 50 per cent.

For comparative purposes, the statement also shows the rates from New York, a competitive point of origin to the same destinations. The actual 2nd class rates from New York are lower than the rates under the Eastern scale by amounts ranging from 2 cents to 10 cents per 100 pounds. From Jacksonville, Florida, to Indianapolis, Indiana, for [fol. 1841] a distance of 890 miles, the rate of 207 cents per 100 pounds exceeds the rate from New York to Chicago for the same distance by 45.8 per cent. The rate of 237 cents from Tampa to Indianapolis for a distance of 1036 miles, exceeds the rate of 157 cents from New York to St. Louis for a distance of 1027 miles, by 80 cents, or 51 per cent.

Some years ago a plant was established in Jacksonville which manufactured safety matches in cardboard strips, which are used as advertising matter. The operation of the plant was successful in its initial stages; but, when the production was expanded to a certain point it was necessary to ship to widely scattered markets throughout the country in less than carload lots and carload lots. Immediately the freight rates became an important factor to the Jacksonville plant in its attempt to sell its matches in the Northern and Central Northern cities in competition with manufacturers located in the North.

A study of the competitive rates on matches into Central territory disclosed such wide differences in the class rates that the Jacksonville Traffic Bureau filed a complaint attacking the class rates on matches, cigars, and other articles from Jacksonville to points in Central territory. That was in 1939. In the meantime and because of our

inability to secure prompt relief, the Jacksonville match plant was unable to exist under the handicap in freight [fol. 1842] rates to the North and was closed. It is still closed.

My exhibit, page 58, shows the fifth class rates on matches, in carloads, from Jacksonville to important cities in Central territory; and the percentages by which these rates exceed the Eastern Scale. The rate from Jacksonville to Chicago, 118 cents, is 176 per cent of the Eastern Scale first class rate of 67 cents, and 155 per cent of the going rate of 76 cents in Official territory.

In my opinion the high level of the class rates from Jacksonville into Central territory was one of the primary causes of the discontinuance of the manufacture of safety matches in the Jacksonville plant.

Mr. Hillyer: If the Chairman please, we offer in evidence Exhibit No. 92.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 92? (No response.) Without objection, it is received.

(Exhibit No. 92, Witness Maurer, received in evidence.)

Mr. Gwathmey: Mr. Chairman, I ask that the following be struck——

Chairman Aitchison: In Exhibit 92?

Mr. Gwathmey: I am referring to the narrative statement now.

Chairman Aitchison: All right. You have no objection to Exhibit 92?

[fol. 1843] Mr. Gwathmey: No, sir. At the bottom of page 44 of the witness' narrative statement in which he discusses the business of some match manufacturer located at Jacksonville, the following statement occurs: "In the meantime and because of our inability to secure prompt relief, the Jacksonville match plant was unable to exist under the handicap in freight rates to the north and was closed. It is still closed."

I do not think this witness is competent to testify as to the reason why that plant was closed.

Chairman Aitchison: What do you say as to your knowledge of that, Mr. Witness?

The Witness: The president of the match company told me personally, that unless he could secure rates to reach

this Central territory and ship his matches in competition with producers located in Central territory, he would be unable to continue the operation of his plant and would sell out to one of the match concerns located within this territory, and that he did. The plant was closed and it is still closed.

By Mr. Hillyer:

Q. Did the manager of that plant have repeated conferences with you with respect to the rates from Jacksonville outbound to the north?

A. Yes, sir. At his request I attended meetings before the Southern and Official rate committees in an endeavor to straighten out his rate difficulties. In that I was un- [fol. 1844] successful.

Chairman Aitchison: We will let it stand.

By Mr. Hillyer:

Q. Mr. Maurer, has Jacksonville become quite a general manufacturing center?

A. I would say it has, yes, sir.

Q. Will you say roughly how many articles, separate articles are manufactured within the Jacksonville area.

A. A recent survey indicated that there were in the neighborhood of 350 to 400 different articles manufactured in the Jacksonville area.

Q. Do you come in contact with the manufacturers of various high-grade products in Jacksonville in the course of your regular duties?

A. Very frequently, yes, sir.

Q. Do they depend upon your office for rate and traffic service?

A. They do.

Q. Has there been any complaint from them to you with respect to the class rates from Jacksonville into the Northern territory?

A. Yes, many complaints. In fact, that has been the source of more complaints than anything else.

Q. Have you had any complaints with respect to the classification ratings on articles shipped at class rates from Jacksonville?

[fol. 1845] A. Yes; very recently we had a producer of narcissus bulbs come to our office, and he asked me to assist him in securing a reduction in the classification on gladioli bulbs—I said "narcissus". I should have said "gladioli". He asked me to assist him in securing a reduction in the classification on gladioli bulbs to be on the same level as narcissus bulbs. We handled it for him and even though he requested prompt action in view of the fact that the shipping season was right upon him, we have been unable to make any progress through the classification committee towards securing the reduction he sought.

Q. Did the railroad representatives agree with you that there was no basis for a distinction between gladioli bulbs and narcissus bulbs?

A. Yes. The proposition was placed before the classification committee by the railroads serving Jacksonville and they endeavored to progress it but were unable to secure special action and secure the publication of the changes sought.

Q. Is the bulb industry an important high-grade industry in Florida?

A. It is an industry that is making very rapid strides and becoming increasingly important.

Mr. Hillyer: The witness is tendered for cross-examination.

[fol. 1846] Chairman Aitchison: May I ask a question with respect to pages 100 to 103 inclusive.

By Chairman Aitchison:

Q. How did you get the short-line mileage that you say was used on page 102?

A. I have in my files some data which was originally issued by the official carriers which purports to show the shortline distances between points in Official territory. I secured the information from that source. I made no attempt to check it.

Q. Do you know whether these differences between Baltimore, Philadelphia and Richmond on the one hand and New York on the other are due to the establishment and maintenance of the port differentials?

A. Perhaps that has something to do with it, Mr. Chairman.

Q. That was contemplated, was it not, by the report in the Eastern Class Rate Case?

A. Yes. That is true.

Q. Then how can you say that these rates are lower than the class rates that were prescribed in that case if the maintenance of the port differentials were an essential part of the decision in that case?

A. I did not intend for the exhibit to convey the impression that they were lower than the rates prescribed in that case, but I did intend to show by this exhibit that the rates are in effect and are lower rates computed on basis of the [fol. 1847] Eastern Scale.

Q. On the basis of the column 100 appendix E scale?

A. Yes, that is correct.

Q. But it was not contemplated by the Commission, was it,—if you read the report,—that the column 100 appendix E scale should be applied from Baltimore?

A. No, sir. That is right. I have merely prepared this exhibit to illustrate the difference between that condition and the condition from Florida and Jacksonville where the going class rates are considerably in excess of the through K-2 scale, whereas that situation is not true in Official territory with respect to the Eastern scale and those rates shown here are those that were fixed by the Commission in 15879.

Q. Where have you shown a comparison with the K-2 scale from Jacksonville? Is that the following section?

A. It is on pages 43——

Q. 43 of Exhibit 92?

A. Yes—43, 44, 45 and 46. It shows that the present published rates exceed in some instances very substantially, by very substantial amounts, the rates that would have applied had the through K-2 scale been applied.

Q. That is different. You seem to leave the impression, as you read your statement, that the order of the Commission has not been observed. The order of the Com- [fol. 1848] mission was not that the K-2 scale should apply, but that the K-2-Q-1 scale should apply, is that not true?

A. That is true, and it is my belief that the Commission never intended such a result for the reason that part of the haul is through a much lower-rated territory than Southern territory, and I cannot believe that the Commission would fix rates through a lower-rated territory higher than within the higher-rated territory.

Q. Anyway, right or wrong, the decision of the Commission——

A. That is correct.

Q. —was not that the K-2 scale should apply any more than the appendix E scale should apply from Baltimore?

A. Yes. That is true.

Chairman Aitchison: Is there any cross-examination?

Mr. Gwathmey: I have only one question, and that is primarily for the purpose of clarification.

Chairman Aitchison: Mr. Gwathmey.

Cross-examination.

By Mr. Gwathmey:

Q. Will you turn to the pages of your exhibit which commence with page 58.

A. Yes, sir.

Q. Taking, for example, the first point shown, which is Jacksonville, Florida, and Akron, Ohio, as I understand this exhibit, all you are undertaking to show is what the rate would be between Jacksonville and Akron under the appli- [fol. 1849] cation of the Docket 15879 scale for that distance, is that correct?

A. That is correct, yes, sir.

Q. Do you want the inference to be drawn from this exhibit that the rates between Jacksonville and Akron are 47 per cent higher than the rates applicable within Official territory for the same distance?

A. This shows, Mr. Gwathmey, the difference with respect to each of the classes and the total in the six classes is 47 per cent. That is correct.

Q. Is your answer to my question "Yes" or "No"? I want to have a direct answer to my question.

A. Perhaps I did not understand your question.

Mr. Gwathmey: Read the question to the witness, please, Mr. Reporter.

(Question read.)

A. No, sir. I do not want to leave that inference. If the exhibit shows that the rates are not 47 per cent higher, but they range from 37 to 100 per cent higher.

By Mr. Gwathmey:

Q. If you want to compare the rates in effect between Jacksonville and Akron and the rates in effect within Official territory and then strike an average of the difference, would you not have to take into account the difference in classification ratings?

A. This study, Mr. Gwathmey, is referred to in other studies and in my testimony. I show in the right-hand text [fol. 1850] that there are many commodities that are rated the same in both territories and the classification has been taken into consideration in preparing this exhibit.

By Chairman Aitchison:

Q. What commodities are rated sixth class in both territories?

A. There are some commodities.

Chairman Aitchison: I have been trying all during this hearing to find out what they are.

The witness: I can refer you to one of them anyway. I went through the classification and found some. Lime nitrogen in carloads is rated sixth class in both territories.

Chairman Aitchison: What is that?

The Witness: Lime nitrogen, and there are others, Mr. Chairman.

By Chairman Aitchison:

Q. How many others?

A. Perhaps not a great number. I would say 25 maybe. Maybe more, maybe less. I believe that is about the right figure.

Mr. Norman: Mr. Chairman, may I say that Mr. Bell has distributed an exhibit that has not been filed yet, which shows as to each and every one of the classes, how many are the same in both.

Chairman Aitchison: I know Mr. Bell has done that.

Mr. Norman: And there is a good deal of that in Mr. Hart's exhibit.

Chairman Aitchison: Mr. Hart did not go into detail on [fol. 1851] it, did he?

Mr. Hart: It shows the number.

Chairman Aitchison: I beg your pardon?

Mr. Hart: It shows the number in each territory.

Chairman Aitchison: You have your exhibit before you there, Mr. Hart.

Mr. Hart: Yes.

Chairman Aitchison: While the witness is testifying, give us a reference to the pages and so forth of the exhibit.

Mr. Hart: All right.

Chairman Aitchison: Continue.

By Mr. Gwathmey:

Q. It is true, is it not, that a very large number of commo--ties, which take sixth class, for example, in the South, take fifth class or some other class in the North?

A. Yes.

Q. Now, if you want to draw a comparison in your exhibit here on page 58 between the actual rates from Jacksonville to Akron and the actual rates for the same distances within Official territory, you would have to take into account those differences in classification ratings, would you not?

A. Yes, in so far as fourth, fifth and sixth classes are concerned.

Q. Yes.

[fol. 1852] A. One, two and three, of course, take the same percentage of first class.

Q. Your rates from Jacksonville to Akron are governed at present by the Southern Classification, are they not?

A. That is true.

Q. You are asking for the Official territory level of rates, as I understand your position?

A. No sir. I have not made any proposal here.

Q. Are you asking or will you ask for any change in the application of the classification, that is, are you asking or will you ask that the Official Classification should be substituted for the Southern?

A. No, sir.

Q. In connection with rates from Jacksonville to Akron?

A. No. I am not asking for anything other than uniformity, regardless of how that uniformity is brought about.

Mr. Gwathmey: That is all.

Mr. Wagner: If the Chairman please, sheet 2 of section 4-A of Mr. Hart's Exhibit No. 88, the lower left-hand corner, shows 37 items are rated sixth class in the two territories.

Chairman Aitchison: Are they enumerated?

Mr. Wagner: I beg your pardon?
Chairman Aitchison: They are enumerated, are they?
Mr. Wagner: No. They are just numbers.

Chairman Aitchison: Is there any further cross-exami-
[fol. 1853] nation?
Mr. McCollester: I have a few questions.
Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Will you turn to page 107 of your exhibit, please.
A. I have it.
Q. At what points in Official territory are fibre brushes manufactured?

Chairman Aitchison: What is a fibre brush, a broom?
Mr. Hillyer: Mr. Chairman, our economic witness will deal with fibre brushes.
Chairman Aitchison: Well, let this witness tell us what he knows about that.
Mr. Hillyer: This exhibit was prepared for the use of Dr. Eutsler.
Chairman Aitchison: I know, but this witness is put on. He has to vouch for it to some extent. Let us find out what he knows about it.
The Witness: I cannot tell you how many different points. I know there are manufacturers located in the New York area and also in Massachusetts, I believe, and there are manufacturers located in other places, elsewhere perhaps in other northern states.

By Mr. McCollester:

Q. There are manufacturers in the Chicago area, are there not?
[fol. 1854] A. Perhaps there are.
Q. If you know, what difference in transportation expenses will prevent the movement of fibre brushes, prevent their competing in a particular market?
A. I do not know. That feature will be covered by Dr. Eutsler.
Q. Do you have the same answer to similar questions with respect to the other commodities and rates which you cite in the following pages of this exhibit?
A. Yes, I think that would be true.

Q. The rates on furniture which you show on page 110 from Palatka, Florida, and Tampa, Florida, are not class rates, are they, or not on the classification basis?

A. They are on a basis of exceptions to the classification, but you go to the class tariffs to find the rates.

Mr. McCollester: Mr. Chairman, I move to strike the testimony of the witness at page 40 of his prepared statement to this effect, and I will read it: "There are within the state numerous small-scale industries which heretofore have been stifled by the inability to reach important northern consuming or manufacturing points with their products on a basis which would enable them to meet competition within that territory." Then he goes on and gives examples which are covered by the pages of his exhibit to which I have referred as examples of that statement. I move to strike the [fol. 1855] witness' statement.

Mr. Hillyer: May I ask one or two questions?

Chairman Aitchison: Yes.

By Mr. Hillyer:

Q. Mr. Maurer, is there a palmetto fibre plant at Jacksonville?

A. Yes.

Q. Do they manufacture both palmetto fibre and brushes?

A. Yes, sir.

Q. Do you act in the relation of traffic manager for the Wooten Fibre Company at Jacksonville?

A. I do, yes, sir.

Q. Have they discussed with you the importance of shipping their products into the northern states?

A. Frequently, yes.

Q. Did they give you assistance in the preparation of this case?

A. Yes, sir.

Q. Are you familiar with their plant to some extent, and their process of manufacturing?

A. Yes.

Mr. Hillyer: I think the witness is qualified, sir, to speak about this industry.

Mr. McCollester: Mr. Chairman, I direct your attention to the fact that the witness has stated he does not know what difference in freight rates would permit or would pre-

[fol. 1856] vent the movement of any of these commodities.

Chairman Aitchison: I think it has been sufficiently shown that he is in a position to know something about it. The weight which can be attached to it can be developed, if it has not been already.

Mr. McCollester: I move also to strike page 110 of the exhibit relating to the rates on carload furniture. I do that to keep the record clear for the reason not that it is not proper to show rates for comparative purposes, which may not be involved in the proceeding, but for the reason, as the testimony of this witness shows, that those rates are cited as rates which create the condition which they complain of in this proceeding and they are rates that are not involved in this proceeding.

Chairman Aitchison: The facts are here. Of course, they will be used for proper purposes, not for improper purposes.

By Mr. Hillyer:

Q. Mr. Maurer, are there additional items in the furniture list of articles which actually move at class rates from Florida?

A. Yes, sir, there are.

Q. Is this used merely as illustrative of certain descriptions in the furniture list?

A. Yes, and also the fact that regardless of the type of rate, the comparison with the Eastern scale, or with Eastern [fol. 1857] rates—that is 70 per cent of first class—70 per cent is nothing more than a third class rate.

Q. Now, in order to check the rate on these furniture items from one point to another, is it necessary to use the actual class rate tariff?

A. Yes, sir, it is.

Q. There are no rates stated in the exceptions to the classification, are there?

A. No rates in the exceptions or the classification itself. It is necessary to go to the class tariff to develop the rate.

Mr. McCollester: I do not want to prolong the discussion except to say this: the furniture industry is or was an important one in the state of New York until it moved to the south. We do not consider that the rates on furniture are involved in this proceeding. If they are, we should like to be so informed, but furniture moves to a very large extent on exceptions to the classification, and if I correctly

understand the rulings that have been made here, the exceptions to the classification are not in issue in this proceeding, or the rates which they produce.

Chairman Aitchison: Well, perhaps furniture ought to be put back in the classification. I do not know.

Mr. McCollester: It does not move on the classification basis.

Chairman Aitchison: That is a fact we are entitled to [fol. 1858] know.

Mr. Norman: As a matter of fact, all the——

Chairman Aitchison: I have ruled with you.

Mr. Norman: All right.

Chairman Aitchison: The motion is denied. It is time for us to suspend now until 1:30.

(At 12:30 P. M., adjourned until 1:30 P. M.)

Afternoon Session 1:30 o'clock P. M.

Chairman Aitchison: We will resume.

Mr. Smelker: I have two or three questions, Mr. Chairman.

Chairman Aitchison: Mr. Smelker.

T. C. Maurer resumed:

Cross-examination (Cont'd.)

By Mr. Smelker:

Q. Mr. Maurer, will you refer to page 1 of your text, your written statement?

A. Yes.

Q. Down at the bottom of the page you state that your past duties required the study of various rate adjustments and transportation conditions.

A. Yes.

Q. Does that term include the cost of transportation, the factors affecting cost?

A. No, sir. It has no relation to cost at all.

[fol. 1859] Q. What does the term "transportation conditions" mean, then, in the light of your testimony?

A. Well, switching arrangements and means of handling traffic within terminals and that type of investigation and study.

Q. Now, considering the Florida arbitraries, have you made any study of the relative cost within the state as compared to other Southern states?

A. No, sir. I have made no studies respecting cost. Those figures have been made by Mr. Saunders.

Q. Will you refer to page 5 of the text of your statement, the second paragraph.

A. Yes.

Q. You say "This percentage is based on first class rates for 200 miles, approximately the average haul in each territory." Is that average per road or per shipment?

A. That is the average haul within Southern territory.

Q. Is that joint haul, or——

A. All classes of haul. I have used 200 as a round figure. It may be a mile one way or the other. That is about the average haul in Southern territory.

Q. How was it computed?

A. I took it from Government statistics. I do not know how it was computed.

Q. What Government statistics were those, do you recall?

[fol. 1860] A. I do not recall the number of the statement offhand, but I can furnish it, I am sure.

Q. Will you furnish it to Dr. Edwards, please.

A. Yes. I will be glad to.

Q. On page 19 of the text you state that on intrastate traffic the motor carriers removed the arbitraries and the railroads voluntarily met the reduction. Have the motor carriers and water carriers similarly removed the arbitraries on interstate traffic?

A. No, sir.

Mr. Smelker: That is all.

Chairman Aitchison: Is there any further cross-examination of this witness? (No response.) Have you anything further, Mr. Hillyer?

Mr. Hillyer: No.

Chairman Aitchison: You may stand aside.

(Witness excused.)

[fol. 1861] Mr. Hillyer: Call Mr. Donnell.

Chairman Aitchison: Raise your right hand and be sworn.

Mr. Hillyer: We ask to have marked for identification Mr. Donnell's two exhibits. One is the large exhibit, the

printed exhibit of graphs, consiting of 16 pages. The smaller exhibit is stencilled and consists of 10 pages. I ask that the larger exhibit be marked for identification as No. 93.

Chairman Aitchison: It may be so marked.

(Exhibit No. 93, Witness Donnell, marked for identification.)

Mr. Hillyer: I asked that the smaller exhibit be marked for identification as No. 94.

Chairman Aitchison: It may be so marked.

(Exhibit No. 94, Witness Donnell, marked for identification.)

Mr. Hillyer: Mr. Donnell's exhibits and testimony have been distributed in advance to all parties.

Chairman Aitchison: Proceed.

JOSEPH H. DONNELL was sworn and testified as follows:

Direct examination.

By Mr. Hillyer:

Q. Will you state your name, address and occupation for the record, please, Mr. Donnell?

A. My name is Joseph H. Donnell. My business address [fol. 1862] is Chamber of Commerce Building, Tampa, Florida. I am manager of the Tampa Traffic Association.

Q. Mr. Donnell, have you made special studies for the purpose of this case?

A. I have.

Q. Have you prepared the two exhibits which have been marked for identification respectively as Nos. 93 and 94?

A. Yes, sir.

Q. Were they prepared by you and under your direction in your office?

A. Yes, they were.

Q. Are the sources of the information on those exhibits shown on the exhibits?

A. On the exhibits, yes.

Q. Are they true and correct to the best of your knowledge and belief?

A. Yes, they are.

Q. Please proceed with the presentation of your testimony.

A. I have had more than thirty years experience in Freight Traffic Management and in the preparation of

rate exhibits and traffic studies which have been introduced in evidence in proceedings before the Interstate Commerce Commission, the Railroad Commission of Florida, the Maritime Commission, the Civil Aeronautics Administration, various committees of Congress, and other govern-
[fol. 1863] ment agencies. My past experience includes service as a member of the Rate Board of Swift & Company, on the staff of the Interstate Commerce Commission, a land grant rate expert in the Quartermaster Corps of the Army, and on the rate and solicitation staffs of certain trunk line rail carriers in the South. I am at the present time employed as manager of the Tampa Traffic Association, a voluntary non-profit Florida corporation of commercial interests, shippers and receivers of Tampa.

Florida is entitled to both the reduction of basic scale rates and the elimination of the Florida arbitraries. Florida interests in this proceeding are the same as those of the other Southern states, in that its development requires and conditions justify rates comparable with those applicable in Official territory.

Florida, however, has an additional problem peculiarly its own, occasioned by the "Florida arbitraries", which are added to the basic K-2 scale for the distances that shipments are hauled within peninsular Florida. Since the testimony of the Southern witnesses generally, deals with the basic scales, Florida, in this proceeding, has of necessity focused its testimony to a very large extent upon the necessity and justification for the removal of the Florida arbitraries. Because the Commission, in its decision in Docket 13494, predicated its prescription of the Florida
[fol. 1864] arbitraries upon dissimilarity of conditions in Florida as compared with the other states of the South, my testimony and studies are devoted to the purpose of showing that however disadvantageously Florida may have compared with other southern states in the past its recent enormous growth and development, as of 1940, has resulted in conditions that are equally as favorable as those in the other Southern states and in many other states throughout the country, including certain states in Official territory.

The removal of the Florida arbitraries is particularly essential. The phase of the subject assigned to me for study and testimony therefor- goes very largely to the Florida arbitraries and more particularly a study of rail and truck traffic and transportation conditions in Florida

as they affect, are affected by, or are related to the Florida rate structure, including the Florida arbitraries.

The Florida arbitraries are injurious to the rail carriers. My testimony and exhibits support and sustain the conclusion of the Commission's witness, Mr. C. G. Jensen, which was in part and in substance that the Florida L-2 arbitraries are a source of injury rather than of benefit to the rail carrires and that the rates to and from Florida should be placed on the same level as those to and from the states immediately to the north of Florida.

My exhibits are complementary to those filed by Witness [fol. 1865] Grady, whose studies deal with the geographical position of the state and Florida's water borne tonnage, and should be considered in conjunction with Mr. Grady's studies in order to get a clear picture of the whole. My studies and exhibits are based very largely upon reports of railways to the Interstate Commerce Commission and upon reports of the Commission's Bureau of Statistics. They have been bound in the form of two separate exhibits, one large printed exhibit in graphic form, size 17 x 15 inches, consisting of 16 pages, offered for identification as Donnell's exhibit No. 93; and one stencilled exhibit, size 8½ x 14 inches, consisting of 10 pages, offered for identification as Donnell's exhibit No. 94. The pages in each volume are numbered consecutively and indexed.

My first printed exhibit deals with the matter of grades, employees per mile of line operated, tax accruals and tons of carload revenue freight originated and terminated in Florida. My second stencilled exhibit shows the extent of the use of motor freight vehicles in Florida, increase in Florida's population, commodity groups of carload freight tonnage originated and terminated, and information pertaining to the movement of phosphate rock.

My studies, based upon years of study of Florida traffic, combined with Witness Grady's studies and exhibits, convince me that Florida has grown so greatly in the produc- [fol. 1866] tion of freight tonnage that the imposition of the Florida arbitraries, which were prescribed by the Interstate Commerce Commission in Docket 13494, are impracticable and unjustified, can only serve to result in heavy diversions of traffic to motor and water carriers, and that the arbitraries should be removed, permitting the same rate structure to apply in Florida as in the other Southern states.

Mr. McCollester: May it please the Commission, I object to this character of testimony and particularly to the statement which is about to follow, I infer, because it appears on page 4 of the prepared statement. I object in general to the prepared statement as being largely argumentative. The witness now proposes to tell what is shown by the testimony of other witnesses and by various exhibits. I submit that the testimony speaks for itself. The facts are there, whatever they may be. I object to the witness testifying as to what somebody else may show.

Com. Splawn: What have you to say, Mr. Hillyer? That seems to be a good objection.

Mr. Hillyer: The statement on page 4, your Honor, is a summary of the points to be developed by his testimony. I think his statement shows that he has had access to the other Florida studies of Mr. Maurer and Mr. Grady, and he bases his, what you might call summarized statement here, on the whole of the Florida testimony.

[fol. 1867] Com. Splawn: Are these summaries arguments to the Commission based upon that testimony?

Mr. Hillyer: No, sir. He is stating merely the ultimate facts which he proposes to show by hs own exhibit.

Com. Splawn: The objection is overruled.

Mr. McCollester: May I just say, if your Honor please, in response to the last statement of Mr. Hillyer, where he says he is stating the ultimate facts to be shown by his own exhibits, that at the very top of page 4 it states, "My exhibits, in conjunction with other exhibits filed or to be filed in this proceeding by other Florida witnesses, reveal that", and then he goes on to list what is revealed by the other exhibits of other witness. I submit it is highly improper.

Com. Splawn: Apparently the witness has undertaken to summarize the facts which have been assembled in collaboration, which I understand is Mr. Hillyer's explanation. I asked Mr. Hillyer if the witness intends to argue or has here argued from those facts. If you point out any argument, the objection to the argument will be sustained.

Mr. McCollester: I point out all of page 4, if your Honor please.

Com. Splawn: We will reserve ruling on that for the moment and let the witness proceed.

Mr. McCollester: There may be other portions when he [fol. 1868] comes to them. I have not had a chance to go through it.

Mr. Hillyer: Mr. Donnell, I ask that you strike from your statement the reference to exhibits filed or to be filed by other Florida witnesses. As so amended I think page 4 relates only to the matters of facts which are shown in your own exhibits.

Mr. McCollester: Well, then, do not the exhibits speak for themselves?

Chairman Aitchison: My own impression is, for what it is worth, that in the case of a voluminous set of facts like this, an informed witness can very properly state his conclusions based upon the facts shown.

Mr. Hillyer: Mr. Donnell, I think that the conclusions which you have summarized here will appear very clearly from your exhibits. I suggest that we eliminate page 4 and proceed with the balance of your statement.

The Witness: I request that page 4 be eliminated.

Chairman Aitchison: Very well.

By Mr. Hillyer:

Q. Proceed, please, Mr. Donnell.

A. My studies of Florida's terrain and climate reveal that there are elements affecting the costs of railroad operations in Florida which are extremely favorable as compared with conditions in other states, that Florida is practically level from one end to the other and that therefore the maximum grades and curvatures are relatively insignificant as com- [fol. 1869] pared with those of other states, particularly the mountainous sections of Vermont, New Hampshire, New York, Pennsylvania, Maryland, Virginia, North Carolina, Georgia and Tennessee. It is also true that the absence of snow, ice and severely cold weather afford year round seasonal operating conditions in Florida more favorable than conditions in other states north of Florida, particularly the states in C.F.A., Trunk Line and New England territories, where climatic conditions frequently necessitate temporary embargos and the employment of a greater number of employees per mile of line than in Florida.

Page 1 of my Exhibit No. 93 is a graph showing maximum grades on the Seaboard Air Line Railway. The Seaboard Air Line was selected because it more nearly approaches a water level route than other roads serving the South. Had the grades on the Seaboard Air Line in Florida been compared with the grades on the Southern Railway in the moun-

tains of Tennessee, North Carolina, Georgia, or Virginia, for example, the differences in favor of Florida would of course have been much more pronounced. As it is, it will be noted from the long black line at the top of the page, that the average maximum grades in the Virginia Division (1.15) and the North Carolina Division (1.17) are more than 100 per cent greater than on the Seaboard's South Florida Division (0.55), and are substantially greater than on the [fol. 1870] Seaboard's North Florida Division (0.78), as shown by the short black lines at the bottom of the page. The relative absence of grades in Florida, as compared with the other states traversed by the Seaboard, connotes relatively lower construction costs and lower operating costs.

Florida has fewer employees per mile of line than in thirty-eight other states. Exhibit No. 93, page 2, is a graph showing the number of employees per mile of line operated by Class 1 Steam railways as of July, 1940. The Florida figures are compared with those of 38 other states. It will be noted that whereas in Maryland there are 16.41 employees, indicated by the long black line at the top of the page, in Florida the rail lines are able to conduct their operations with only 2.61 employees per mile of line, as indicated by the short black line at the bottom of the page. This short Florida line is less than ⅛ the length of the longer Maryland line. It will also be noted that the Florida employees per mile are fewer than in the southern states of Maryland, Kentucky, Virginia, Tennessee, Georgia, North Carolina, Alabama, and Louisiana. This smaller number of employees per mile of line in Florida, of course, contributes to lower operating costs.

Railway taxes in Florida are lower than in 45 other states. My exhibit No. 93, page 3, shows, in graphic form, railway tax accruals per mile of line owned in Florida compared [fol. 1871] with tax accruals in 45 other states for the year 1939, the only year for which the comparative tax figures were available to me. This comparison excludes Federal taxes which are assumed to be uniformly based in the several states. It will be noted that tax accruals in New Jersey, per mile of line, are $9,177.00, and in Florida only $432.00. The New Jersey taxes are more than 21 times those of Florida, as indicated by the extremely long black line at the top of the page as contrasted with the short black line opposite Florida at the bottom of the page. Taxes in New

York ($3,893.00) per mile of line, are nine times the Florida taxes. Florida taxes per mile of line are lower than in any of the Southern states of Kentucky, Virginia, North Carolina, Louisiana, Tennessee, Mississippi, South Carolina, Alabama, Georgia, and are in fact lower than in any other of the 45 states shown on the exhibit. These lower taxes in Florida should, of course, be conducive to lower rather than higher rates in Florida.

Florida rail traffic has increased 112 per cent since 1921. See pages 4 to 16 of exhibit No. 93. It is pertinent and will be helpful to the Commission to touch briefly upon the subject of traffic density, Florida versus the other southern states. The Commission's decision in Docket 13494, which prescribed arbitraries to be added to the basic rates in Florida, on account of the allegedly light traffic density in that state, was of necessity predicated upon traffic tonnage [fol. 1872] information obtaining in the years prior to the 13494 hearings. Traffic tests were made during 1922 and 1923 which showed peninsular Florida traffic density to be 554,934 average revenue ton miles per mile operated, as contrasted with higher traffic densities of varying degree for the other southern states (100 I.C.C. 622). My attempts to procure similar information from the railroads, showing comparative traffic densities in recent years, have been fruitless; moreover, I have been unable to procure figures showing tonnage originated and terminated by states for the years between 1920 and 1930 to compare with similar figures shown in this exhibit for 1940. However, reports made by the Florida railroads to the Florida Railroad Commission and published in the Florida Commission's Annual Reports, reveal the total tons of revenue freight carried in the state of Florida; as follows: 1921—10,667,895 tons. 1940—22,701,663 tons, an increase of 1940 over 1921 of 112 per cent. The greatest significance of this information lies not in the tonnage figures alone, but in the fact that the Florida railroads have reported 1940 tonnage carried, amounting to 212 per cent of the tonnage carried in 1921 or an increase in 1940 over 1921 of 112 per cent. Thus, the traffic density of Florida has shown a commensurately heavy increase over the density obtaining during the course of and prior to the hearings in Docket 13494. This fact of vastly increased [fol. 1873] traffic is proved by figures compiled by the Commission's Bureau of Statistics as set forth on pages 4 to 16 of this exhibit No. 93.

In freight originated and terminated, Florida has changed from a little state to a big state since 1921. Exhibit No. 93, page 4, is a statement showing in graphic form the number of tons of carload revenue freight originated by Class 1 steam railways during the calendar year of 1940. It shows the tonnage originated in Florida compared with that originating in 25 other states, and it will be noted that Florida originated more rail tonnage than any of the other 25 states shown in the exhibit, including even such states as Maryland, Delaware, and New Jersey, which are located in Official territory. In fact, the Florida originated tonnage exceeds that of New Jersey by more than 1,850,000 tons, and exceeds that of Maryland by more than 5,000,000 tons. The long black line opposite Florida at the top of the page is 19½ times as long as the line at the bottom of the page opposite Delaware.

Exhibit No. 93, page 5, is a graph showing the number of tons of carload revenue freight terminated by Class 1 steam railways during the calendar year of 1940. It shows that Florida terminated a substantially greater amount of tonnage than any of the 22 other states included in the statement. The long black line at the top of the page opposite Florida is more than 10½ times as long as the short black [fol. 1874] line opposite New Mexico at the bottom of the page.

Exhibit No. 93, page 6, is a graph comparing the number of tons of carload revenue freight originated by Class 1 steam railways in Florida with similar tonnage originating in five other southern states. It will be noted that Florida originated 14,192,235 tons as compared with 8,331,556 tons in Georgia and that the Florida tonnage also exceeded that of Tennessee, Mississippi, North Carolina and South Carolina by extremely substantial margins. As a matter of fact, a more detailed examination of this data reveals that Florida originated substantially more tonnage than Georgia and South Carolina combined, and more than North Carolina and Mississippi combined. The Florida line at the top of this graph is more than 2½ times as long as the black line opposite South Carolina at the bottom of the page. These facts are certainly illustrative of the manner in which the Florida arbitraries which were first applied in 1928 have since become obsolete and are no longer justified by present conditions.

Exhibit No. 93, page 7, is a graph comparing the number of tons of carload revenue freight terminated by Class 1 steam railways in Florida with similar tonnage terminating in five other southern states. It will be noted that Florida's terminated traffic exceeded that of the other states by the following amounts: Exceeded Georgia by more than 2 [fol. 1875] million tons. Exceeded Kentucky by more than 2½ million tons. Exceeded North Carolina by more than 2¾ million tons. Exceeded South Carolina by more than 7 million tons. Exceeded Mississippi by more than 7¾ million tons. The Commission is respectfully reminded at this point that it is Florida which pays the arbitraries, yet Florida's terminated tonnage is more than that of South Carolina and Mississippi combined.

Florida originates nearly as much freight tonnage as all of the New England states combined. Exhibit No. 93, page 8, compares in graphic form the number of tons of carload revenue freight originated by Class 1 steam railways in Florida with similar tonnage originating in the six New England states. Florida's tonnage is 14,192,235 tons, while that of each New England state averages only 2,399,915 tons, or little more than one-seventh of the Florida tonnage. As a matter of fact, Florida originates within about 200,000 tons as much tonnage as all of the New England states, Maine, Massachusetts, Vermont, New Hampshire, Connecticut and Rhode Island, combined. These facts stand out very clearly in comparing the long black lines opposite Florida and the New England states. The Florida line at the top of the page is nearly six times as long as the short black line at the bottom. This information shows that the Florida arbitraries actually penalize Florida for producing the [fol. 1876] traffic, a result which was never intended and which is paradoxical in the light of Florida's development as a traffic producer.

Exhibit No. 93, page 9, is a graph comparing the number of tons of carload revenue freight terminated by Class 1 steam railways in Florida compared with similar tonnage terminated in the six New England States. The average for each New England state is 5,769,946 tons as compared with more than 14 million tons terminated in Florida.

Florida originates more freight tonnage per mile of railroad than 30 other states. The territory traversed by the Florida railroads is exceedingly productive. Exhibit No. 93, page 10, sets forth in graphic form a comparison

taken from a circular issued by the Interstate Commerce Commission's Bureau of Statistics which shows for the first six months of 1940 a comparison of carload revenue freight tonnage originated by Class 1 steam railways per mile of line operated. This statement shows that in 1940 rail tonnage originating in Florida exceeded tonnage originated in 30 other states; and indicates conclusively that mile for mile the territory traversed by the Florida railroads is substantially more productive of traffic than the territory traversed by the railroads in the 30 other states named. For example, Florida originates 1,327 tons per mile of line operated as compared with 1,103 tons per mile of line operated in New England, 850 tons per mile of line in Delaware, 886 tons in Mississippi, 793 tons in South [fol. 1877] Carolina, 734 tons in North Carolina, and 668 tons in Georgia. In fact, Florida originates more traffic per mile of line than the states of North Dakota, Nebraska, New Mexico and Nevada combined, and more than Georgia and Colorado combined. The long black line opposite Florida at the top of the page is nearly 7 times as long as the short black line opposite South Dakota at the bottom of the page.

Since 1921 the Florida list of commodities has become highly diversified and the total tonnage, in and out, fairly well balanced. Exhibit No. 93, pages 11, 12 and 13, are graphs comprising an analysis of tonnage originated in Florida by Class 1 steam railways during the year 1940. There is shown the total number of tons of carload revenue freight of all commodities, the number of tons of each individual commodity and the percentage relationship which each commodity bears to the total volume of all commodities originated. The figures are shown not only for the entire year but are also broken down by quarterly periods. They are also segregated by commodity groups and sub-totals are shown for each group.

Non-seasonal character of Flordia's outbound commodity traffic: Reference to the totals at the bottom of page 13 showing that the preponderance of the traffic, considered as a whole, is not seasonal but is fairly evenly distributed throughout the year. This is particularly true of the first [fol. 1878] three quarters, where it will be observed that the tonnage originated during each quarter amounted to approximately 3,200,000 tons. The tonnage for the fourth quarter (4,465,732 tons) follows the trend prevailing

throughout the entire country where traffic peaks are reached in the Autumn of the year. Moreover, the movement of Florida citrus and vegetables begins to accelerate during the last quarter. It is noteworthy that these perishable crops are high revenue bearing, are shipped from Florida in refrigerator cars at a time of the year when normally that type of equipment is plentiful and not required elsewhere.

Diversified character of outbound commodities: Particular attention is invited to the highly diversified character of the traffic originated in Flordia. The information shown on these pages (11, 12 and 13) should effectively banish the widely prevailing misconception that Florida ships little else than fruits and vegetables. For convenience in readily identifying each commodity that constitutes one per cent or more of the total traffic volume, I have placed opposite each such commodity a bar indicating the exact percentage relationship of such commodity to the total volume of all commodities. In Group 1 (Products of Agriculture), which embraces 42 commodities, only two commodities, citrus fruits and vegetables constitute more than one per cent of the total traffic originated. Citrus fruit accounts for 4.3588 [fol.1879] per cent, and vegetables, N. O. S., 1.264 per cent. In Group 2 (Animals and Products), embracing 22 commodities, there is no single commodity that accounts for as much as one per cent of the total traffic volume originated.

In Group 3 (Products of Mines), embracing 18 commodities, there are only 4 commodities, gravel and sand, stone, phosphate rock and mine products, N. O. S., which contribute 1 per cent or more of the total volume. In Group 4 (Products of Forests), embracing 12 commodities, only four amount to 1 per cent or more, and in Group 5 (Manufactures and Miscellaneous), embracing 62 commodities, there are only 5 commodities which account for 1 per cent or more of the total volume originated. Of all of the 156 commodities listed in Groups 1 to 5, inclusive, only 15, or less than 10 per cent, constitute as much as 1 per cent of the total volume of traffic originated. On the other hand, there are 141 commodities, each of which accounts for less than 1 per cent of the total volume of all commodities originated. Thus it is seen that the traffic which Florida originates is highly diversified.

Florida traffic is singularly well-balanced. Reference to the bottom of page 13 discloses that Florida originated

a grand total of 14,192,235 tons in 1940. Reference to the bottom of page 16 of this same exhibit reveals that in the same year Florida terminated a grand total of 14,124,996 tons of carload rail traffic. These figures reveal that [fol. 1880] tonnage originated and terminated in Florida is in almost exact balance, the originated tonnage exceeding the terminated tonnage by less than 100,000 tons.

Exhibit No. 93, pages 14, 15 and 16, comprise an analysis in graph form of tonnage terminated in Florida by Class 1 steam railways during the year 1940. There is shown the total number of tons of carload revenue freight of all commodities, the number of tons of each individual commodity, and the percentage relationship which each commodity bears to the total volume of all commodities terminated. The figures are shown not only for the entire year but are also broken down by quarterly periods. They are also segregated by principal commodity groups and sub-totals are shown for each group.

Florida inbound commodity traffic is non-seasonal. Reference to the totals at the bottom of page 16 shows that the preponderance of the traffic terminated in Florida, considered as a whole, is not seasonal but moves in substantial and fairly evenly distributed volume throughout the year. This is particularly true of the first two quarters of the year, when it will be observed that Florida terminated 2,971,000 tons in the first quarter and 2,982,000 tons in the second quarter. The third quarter shows an increase of something less than half a million tons (474,307) over the tonnage of the second quarter, in keeping with the prevail- [fol. 1881] ing seasonal trend obtaining throughout the country as a whole. The substantial increase to 4,713,328 tons terminated during the fourth quarter represents about the only seasonal element to be observed in the traffic to Florida. It is, of course, accounted for in part by the seasonal trend obtaining throughout the entire country when traffic reaches a peak in October, and in part by the fact that Florida's population is substantially augmented in winter by the presence of hundreds of thousands of tourists from the North whose presence demands the provision and consumption of enormous quantities of supplies of every description. It can be seen, however, that at no time or season of the year is there any dearth of traffic moving to Florida but that throughout the year the traffic is consistently heavy."

Commodity traffic terminated in Florida is diversified in character. Particular attention is invited to the fact that the traffic which Florida terminates is even more highly diversified than the tonnage originating in Florida. Thus, reference to Commodity Group 1, on page 14, reveals that of the 42 commodities listed only one, mill products, constitutes as much as one per cent of the total tonnage and that percentage amounts to less than 1.2 per cent.

In Commodity Group 2 (Animals and Products), consisting of 22 commodities, there is no single commodity that represents as much as one per cent of the total traffic. [fol. 1882] In Commodity Groups 3 and 4, page 15, (Products of Mines and Forests, respectively), the tonnage is of course dominated by a few commodities in Florida, in the same manner that such heavy loading commodity groups or classification reflect a preponderance of individual commodities in every other section of the country. That condition is prevalent everywhere and is attributable particularly to the character of the commodities rather than to geographical considerations.

In Group 5, pages 15 and 16 (Manufacturers and Miscellaneous) it will be observed that of the 62 commodities listed only seven constitute as much as one per cent of the total traffic volume terminated, revealing a high degree of traffic diversity.

The railroads are losing an enormous volume of Florida tonnage to the water and truck lines, as much as 13,000,000 tons of domestic freight tonnage moving by water alone. I think it is pertinent to say at this point that studies covered by pages 4 to 16 of this exhibit No. 93, are complementary to the water traffic studies submitted by Witness Grady and that, although they show a very large volume of carload freight originating and terminating by railroad in the state of Florida (28,317,231 tons), the Commission should not lose sight of the fact that the volume of rail tonnage would have been even larger had not the high rail rates in Florida, including the Florida arbitraries, diverted so much tonnage to the water and truck lines. [fol. 1883] Witness Grady's exhibits show that in 1939 more than 13,000,000 tons of Florida domestic freight tonnage moved by water and the truck tonnage was very heavy. The truck tonnage in Florida has grown by leaps and bounds. Due to the unique geographical features of

the state of Florida, it is astoundingly easy for shippers to use water and highway transport.

Mr. Hillyer: We offer exhibit No. 93 in evidence, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 93? (No response.) Without objection, it is received.

(Exhibit No. 93, Witness Donnell, received in evidence.)

By Mr. Hillyer:

Q. Proceed, please, Mr. Donnell.

A. Concerning truck transportation, attention is directed to my second stencilled exhibit of 10 pages, No. 94, pages 1, 2, 3, and 4, which shows the number of truck and truck trailer license tags sold by the state of Florida during the year 1940, by counties and classified by type of vehicle. It will be noted that 101,483 such tags were sold, illustrating that there is no dearth of competition by truck but that, on the contrary, the state abounds with highway freight vehicles, some of which are privately owned and operated, others being "for hire" carriers, either common or contract. [fol. 1884] Exhibit No. 94, page 5, reveals the manner in which truck transportation in Florida has grown astonishingly in a ten year period (1930-1940). Truck and trailer tags sold in 1930, numbering 55,373, had increased in 1935 to 68,451 and in 1940 had increased to 101,483. This represents an increase, 1940 over 1930, of 46,110 vehicles.

Exhibit No. 94, page 6 shows how these 101,483 trucks are divided as between privately operated and "for hire" operated vehicles. It will be noted that only 2,677 vehicles, or 2.6 per cent of the total number are "for hire" and that 98,806 vehicles, or 97.4 per cent are privately operated. This very large number of privately owned and operated trucks constitutes the Florida railroads' principal highway competition on interstate traffic. Since 1921 there has been an enormous development of motor vehicle transportation within, to and from Florida.

Since 1920 Florida has grown faster than any other state. Certain preceding exhibits and pages to which I have alluded in my testimony show the point to which Florida has developed as a traffic producing state. One of the principal reasons for that development is found in Florida's phenominal increase in poulation.

Exhibit No. 94, page 7, is a graph showing population increases and percentages of increase, 1940 over 1930, for the United States and for 12 states in the South Atlantic [fol. 1885] and East South Central Divisions, including Florida. It will be noted that whereas the percentage of increase for ten years for the country as a whole was only 7.2 per cent, Florida's increase of 29.2 per cent far outstripped those of any of the states listed, and by very substantial margins. In fact, Florida's percentage increase was the highest of any state in the Union. Florida's population in 1920 was only 968,470, which was exceeded by its 1940 population by 95.9 per cent. Its population per square mile in 1920 was only 17.7 persons but in 1940 had grown to 35 persons per square mile. It is obvious, of course, that this increased population has necessitated additional housing, additional supplies of clothing, food, implements, utensils, material and other articles of sustenance and has moreover substantially augmented and enhanced the productive capacity of the state. Many of the newcomers to the state have gone into agriculture or industry and have established industries of their own. They are not mere tourists.

Exhibit No. 94, page 8, reveals the phenomenal increases in population of three of Florida's most populous counties, viz: Dade (Miami), Duval (Jacksonville), and Hillsborough (Tampa). Particular attention is invited to the population increase in Dade County, in which Miami is located. The increase for that county, 1930 over 1920, was 234.4 per cent. In fact, Florida is the only state in the Southeast, [fol. 1886] except Tennessee, which now has within its borders as many as three cities of 100,000 or more population. This is all permanent population which is, of course, substantially augmented by tourist visitors to Florida during the winter months and which is, to an ever increasing extent, becoming a year-round movement in ever increasing volume. Florida's large tonnage movement is also brought about by numerous other factors of which the following are typical: The increase in citrus and vegetable production, the establishment of new industries of which the citrus and vegetable canning industry, the Kraft Paper industry, the fishing industry, the box and crate industry, the tung oil industry, and the establishment of permanent military, coast guard and naval bases are representative. These developments are not "flash in the pan" occurrences.

I am able to say of my own knowledge that the production of the citrus canning industry, for example, has grown from 4,322,376 cases produced in the 1935-36 season to 19,142,206 cases produced in the season of 1940-41. There are now 48 canning plants in Florida which have been established subsequent to the 13494 Class Rate hearings when Florida's rate structure was last reviewed. These things are typical of the state's substantial development and explain readily its enhanced traffic producing capacity.

Florida in 1940 ranks second among the southeastern states in traffic production and its commodities are highly [fol. 1887] diversified. Florida's rate level should be no higher than that of the other southern states. Page 9 of my exhibit No. 94, is a statement showing revenue carload freight tonnage originated and terminated by Class 1 steam railways, during 1940, in six southern states, including Florida, classified by principal commodity groups and broken down by quarterly periods. It should be borne in mind that by the decision of the Commission, in Docket 13494, peninsular Florida was separated from the balance of the South by an arbitrary line extending from Jacksonville to River Junction, Florida, along the line of the Seaboard Air Line Railway, and the L-2 arbitraries were prescribed to be added to the basic rates on traffic moving south of that line. This differentiation was predicated on the then existing relative lightness of traffic density in Florida as compared with the other southern states. This exhibit, in conjunction with those that have gone before, shows that Florida development in recent years has placed Florida in a highly favorable comparative position with the states of Alabama, Georgia, Mississippi, North Carolina, and South Carolina in the matter of traffic volume, not only as to products of agriculture, but also as to products of mines, forests, animals, and heavy manufactures, and that as a result thereof the arbitrary line should be removed and Florida should be permitted to assume her rightful position at the side of her sister states in the South, with a rate [fol. 1888] level no higher than accorded those states. Please note the last column on page 9. There the totals for all of the commodity groups are shown, both as to freight originated and freight terminated for all four quarters of 1940. It will be noted that Florida's originated tonnage was exceeded only by that of Alabama in any quarterly period, and in all such periods Florida originated substantially

greater volume of tonnage than Georgia, Mississippi, North Carolina or South Carolina; in fact, substantially more than Georgia and North Carolina combined. As to tonnage terminated, Florida's rank among the six southern states named was as follows: First quarter 1940—Ranked 3rd; Second quarter 1940—Ranked 2nd; Third quarter 1940—Ranked 2nd; Fourth quarter 1940—Ranked 1st. Higher rates in Florida than in neighboring states, under the conditions revealed here, are anomalous, are not justified by traffic conditions and my studies have convinced me that the Florida arbitraries are obsolete and should be removed.

High rates from, to and within Florida divert traffic from rail carriage and retard the development of Florida manufactures of high value commodities. It is no answer to this statement to say that Florida's remarkable development in the last 15 years has apparently not been retarded by its higher rate level, because as a matter of fact, that high rate level has compelled Florida to rely in large [fol. 1889] measure upon its water and truck transportation to offset its high rail rates. Moreover, regardless of the development manifested in the shipment of certain commodities, there has been a woeful and lamentable lack of opportunity for Florida to develop the manufactures of those high grade and high value commodities that are described as "Manufactures and Miscellaneous, N. O. S.", commodities which, because of their high monetary value, would bring into the state sums of money disproportionately greater than their physical tonnage volume. This fact is clearly evidenced by the data at the bottom of pages 13 and 16 of exhibit No. 93. Commodities of this description originated in Florida, amounted to only 265,241 tons, or 1.8 per cent of the total tonnage originated, whereas the traffic of this description terminated amounted to 414,937 tons or nearly 3 per cent of the total terminated tonnage. Further proof of this assertion is seen in the fact that during the year 1941, forwarder traffic, consisting principally of higher grade manufactured articles, amounted to only 24 tons originated as against 33,488 tons terminated in Florida (I. C. C. Circular Q-550, 1941). This character of tonnage moves largely on class rates and Florida, with its existing higher level of class rates, has found that its distribution difficulties are not conducive to, but, on the contrary, discourage this type of manufactures and the establishment of this type of industry. This phase

[fol.1890] of the subject is covered more fully in the testimony of other Florida witnesses, hence will not be dwelt upon at greater length here.

In conclusion, I would summarize by simply saying that, as in contrast to a few years ago, the situation in Florida today is such that it is now a prolific source of traffic and revenue for the rail carriers, that the unusual and more expensive operating conditions alleged to have existed in Florida in the past are no longer to be found there, but that on the contrary the conditions now existing in Florida, compared with conditions in other states, are distinctly favorable to economical operations, that there is no longer any justification for the continued maintenance of the Florida arbitraries, and they are now operating to the disadvantage of the rail carriers by diverting traffic and revenues to competing forms of transportation. The higher Florida rates are retarding the development of the manufacture of high grade and high value commodities in Florida, which otherwise would be manufactured there and would constitute a source of substantial additional traffic and revenue for the rail carriers.

Mr. Hillyer: If the Chairman please, we offer in evidence exhibit No. 94.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 94? (No response.) Without objection, it is received.

[fol. 1891] (Exhibit No. 94, Witness Donnell, received in evidence.)

By Mr. Hillyer:

Q. Mr. Donnell, are there many shippers and receivers of high grade freight in Tampa who look to your association for freight traffic service?

A. Yes, sir.

Q. Have there been any complaints in that region with respect to class rates?

A. Yes, numerous complaints.

Q. To what extent have there been complaints as to the class rates?

A. I beg your pardon?

Q. To what extent have there been complaints as to the class rates?

A. Quite extensively; quite vigorously.

Q. How long has that been going on?

A. For the last twelve years, maybe longer. Ever since the last class rate investigation.

Q. Have you had any occasion to visit the Classification Committee seeking changes in ratings on high grade articles?

A. We have had occasion to test the present class rates on high grade articles a number of times before the Florida Railroad Commission and before the railroad committees. We have not complained before the Interstate Commerce Commission because we thought that with a readjustment, a wide-spread readjustment of that kind, it would hardly [fol. 1892] be practicable to have it prosecuted by a single community; that it would have to be in a general proceeding of this kind.

Mr. Hillyer: That concludes the direct examination of this witness, Mr. Chairman.

Chairman Aitchison: Is there any cross-examination?

Mr. Gwathmey: Yes.

Chairman Aitchison: Mr. Gwathmey.

Cross-examination.

By Mr. Gwathmey:

Q. In your opinion do either number of tons of freight originated or number of tons terminated in a given state represent a true index of traffic density in that state?

A. No. I think they represent and show an enormous increase in traffic density. They do not necessarily represent the density itself. That is to say, they do not represent all the freight carried.

Q. If you wished to consider traffic density, should not overhead or trans-state traffic which neither originates nor terminates in the state be included?

A. There is very little over-head traffic in Florida on account of its being a peninsular state, but its traffic originating and terminating builds up the density of the traffic in the Carolinas, Virginia, and Georgia.

Q. Take Florida and North Carolina, for example. On page 4 of your exhibit 93 you draw comparisons as between [fol. 1893] Florida and other states including North Carolina purporting to indicate that the number of tons originated in Florida is about twice what it is in North Carolina.

A. Yes.

Q. That is what your exhibit shows, is it not?

A. Yes; Florida has twice as many.

Q. I call your attention to the fact that in Mr. Hinnant's exhibit No. 70 it is shown that taking the average ton miles of revenue freight per mile of road for the Atlantic Coast Line Railroad for the year 1940 for Florida as compared with North Carolina, the figures are in round numbers for Florida 371,000 and for North Carolina 646,000.

A. Is that Mr. Hinnant's exhibit?

Q. Yes.

A. What is the authority at the bottom of the page there shown to read?

Q. Well, that is what the exhibit purports to show.

A. I know, but what is the authority there shown at the bottom of the page?

Q. Compiled from annual reports filed with the Florida State Commission.

A. Mr. Hinnant and other Florida carrier representatives have testified in many previous cases that those figures bear no relation to the actual fact; that they are predicated on formulas and have no meaning whatever.

[fol. 1894] Q. I am not going to argue with you about the merits of the exhibit at this time. I merely call your attention to that fact.

A. My figures are taken from the Interstate Commerce Commission Bureau of Statistics figures and I think they are correct.

Chairman Aitchison: What question are you asking him about this exhibit?

Mr. Gwathmey: I want to ask him if that difference in revenue ton miles per mile of road operated is not accounted for by the fact that North Carolina has a large volume of over-head or trans-state traffic whereas Florida has none.

The Witness: I am willing to admit that. I said that North Carolina will always, a million years from now, have more density than Florida because the more tonnage we originate the heavier North Carolina's density becomes.

Mr. Gwathmey: Yes.

The Witness: We will never catch up with it.

By Mr. Gwathmey:

Q. One of the principal reasons which the Commission has given for according special treatment to the Florida railroads is the fact that Florida is a peninsular state and has no overhead or trans-state traffic.

A. That was only one of the reasons. It was not the principal reason. The principal reason, as stated by the Commission in its decision in Docket 13494, was that it [fol. 1895] wanted to preserve the revenues of the Florida carriers.

Chairman Aitchison: I do not think we ought to pursue what the Commission had in mind.

By Mr. Gwathmey:

Q. At any rate, has there been any change in that respect since the Commission decided the class rate case in 1928?

A. Change in what?

Q. Florida is still a peninsular state, is it not?

A. Oh, yes. Of course, it still is.

Q. If we build this new canal it will practically be an island, will it not?

A. It is a peninsular state. There is nothing we can do to change it.

Q. Now, in your exhibit on page 2 you draw certain comparisons from the standpoint of number of railway employees per mile of road operated.

A. Number of employees?

Q. On page 2.

A. Page 3?

Q. Page 2.

A. Yes.

Q. Take the first state shown on the exhibit, Maryland. Maryland is a state of relatively small railroad mileage, is it not? It is not a large state, is it?

A. What state?

[fol. 1896] Q. Maryland. I am referring to the first state you show, Maryland.

A. Oh, yes.

Q. Now, is your showing——

A. No.

Q. —as to the number of employees per mile in Maryland affected by the fact that the general offices of the Baltimore & Ohio Railroad are located in Baltimore?

A. I think that has a bearing on it, yes.

Q. Look at Florida, the last state shown.

A. Yes.

Q. Is the number of employees per mile of road in Florida affected by the fact that there is a very large mileage in that state which passes through unproductive territory over which few trains are operated and therefore there are a relatively small number of employees per mile?

A. You are speaking of a condition which existed in the past and which you still assume to exist, but my exhibits show that situation has been done away with very largely. There is very little unproductive territory in Florida today.

Q. There are a great many branch lines of railroad in Florida over which few trains are operated, are there not, at the present time?

A. Well, that is your statement.

Mr. Gwathmey: Very well, sir.

[fol. 1897] By Mr. Gwathmey:

Q. Let us take the matter of railway tax accruals, page 3 of your exhibit.

A. Yes.

Q. The first state you show there is the state of New Jersey.

A. Yes.

Q. Does that heavy volume amount of railway tax accruals per mile in New Jersey reflect the tremendous value of all the terminals on the Jersey side at New York and across from Philadelphia at Camden?

A. I really do not know. It could be.

Q. Would they be included in your figuring of tax accruals per mile of road?

A. I do not think so. I simply took it from the Interstate Commerce Commission report.

Q. Now, you spoke about the diversified tonnage in Florida. I will ask you to look at page 15 of your exhibit.

A. Yes, sir.

Q. I will ask you if it is not true that 35 per cent of the tonnage which you show as originating in Florida——

A. Page 15 shows terminated.

Q. No. Tonnage originated.

A. Possibly you mean page 12.

Q. Page 12. I beg your pardon.

A. I have it now.

Q. That is tonnage originated, is it not?

[fol. 1898] A. That is correct.

Q. I will ask you if it does not appear that 35 per cent of the tonnage originated in Florida consisted of crude phosphate rock.

A. That is shown on the exhibit.

Q. If you will look just above that, you will find that 14 per cent of the tonnage originated consisted of ground or crushed stone, is that not correct?

A. That is also shown on the exhibit.

Q. So fully approximately 50 per cent of all the tonnage originated in Florida was made up of these two heavy loading low grade commodities?

A. They are very fine commodities for railroad haul. In fact, the revenues on the phosphate sweeten up the Florida railroad earnings considerably. If you will refer to the last page of my stencil exhibit, I show there, for example, phosphate rock and representative points from which it moved to Tampa for export. These figures were all taken from Interstate Commerce Commission reports, shown at the bottom of the page. For example, from the points of origin shown beginning with Agricola, extending down to Tampa, the weighted average haul is 32 miles. There is a rate of 75 cents and a ton mile earning of 23.4 mills.

Q. Very well.

A. The railroads have referred to that, from time to time, [fol. 1899] as a gold mine rather than a phosphate mine and I am inclined to agree with them.

Mr. Gwathmey: I am not arguing about that.

By Mr. Gwathmey:

Q. I am talking about your statement as to the diversified tonnage in Florida. According to your own statement 50 per cent of the outbound tonnage is made up of those two commodities, is it not?

A. If you will read the balance of the testimony, everything I have said is warranted.

Mr. Gwathmey: The exhibit speaks for itself, of course. One more question.

By Mr. Gwathmey:

Q. You have spoken about the great prosperity of these Florida railroads in recent years. Do you consider conditions normal at the present time as bearing upon the prosperity of these Florida railroads?

A. I did not say a word about the prosperity of the Florida railroads, but I am glad you mentioned it. They are highly prosperous as Mr. Saunders has shown. The Seaboard Air Line for the first seven months of 1941 is showing a return on investment of in excess of 14 per cent.

Q. That is, according to Mr. Saunders' figures?

A. Yes.

Mr. Gwathmey: All right.

By Mr. Gwathmey:

Q. Now, the Southern Class Rate Case was decided about 1928, was it not, and the testimony was taken——

[fol. 1900] A. The rates went into effect January 15, 1928.

Q. The testimony was taken along in 1926, was it not?

A. It started before then, but it was still being taken in 1927.

Q. At the time when the case was heard, were not the Florida railroads enjoying and had they not enjoyed for a number of years an unprecedented state of prosperity?

A. It is true that the Florida boom brought them a great deal of prosperity. There is no doubt about that. That is quite correct. There was an enormous amount of money in Florida in 1925 and 1926.

Mr. Gwathmey: That is all, sir.

Chairman Aitchison: Is there any further cross-examination?

Mr. McCollester: Just one or two questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. In connection with the showing on pages 2 and 3 of your exhibit No. 93, Mr. Donnell, with respect to employees per mile of line operated in Florida as compared with New York and other Northern states——

A. Employees per mile of line on page 3?

Q. Page 2 is employees per mile of line and page 3 is tax accruals per mile of line.

A. Just a minute.

Q. My question is this——

[fol. 1901] A. I think you are mixing them up—no. You are quite correct. Excuse me. I have it.

Q. My question is this, Mr. Donnell: You would have a very different showing in your graph, would you not, had you compared, instead of employees per mile of line and tax accruals per mile of line, employees and tax accruals per mile of track operated?

A. These particular figures, or this type of figure is never compared the way you suggest, per mile of track.

Q. Will you answer my question, please?

A. For example, in the North——

Q. Will you please answer my question?

A. —you have the——

Q. Will you please answer my question?

Chairman Aitchison: Let the witness finish his answer, Mr. McCollester.

Mr. McCollester: I want him to answer the question responsively, Mr. Chairman.

Chairman Aitchison: He will answer the question.

The Witness: Yes. I will answer it. If it had been per mile of track, it would have shown probably a different result, although I do not know. I would have to compare them.

By Mr. McCollester:

Q. Most of the line of road in Florida is single track, is it not?

[fol. 1902] A. No. Not all of it. The Florida East Coast has a couple of tracks.

Q. Would you not say that the majority of it was single track?

A. Sir?

Q. The majority of it is single track, is it not?

A. I dare say it is.

Q. You know, do you not, that in New York State the majority of the line of road is either double, four or eight tracks?

A. I know that to be true in many—I do not know that the majority of it is, no. I do not think the majority of it is either four or eight tracks. The majority of it is probably double track, with some four and very little eight.

Mr. McCollester: That is all.

Chairman Aitchison: Is there any further cross-examination? (No response.) Have you anything further, Mr. Hillyer?

Mr. Hillyer: No.

Chairman Aitchison: You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Hillyer: Mr. Grady.

Chairman Aitchison: Raise your right hand and be sworn.

Mr. Hillyer: We ask to have marked for identification Mr. Grady's exhibit which is bound in a blue cover, stencilled, consisting of 47 pages.

Chairman Aitchison: It may be marked for identification [fol. 1903] as exhibit No. 95.

(Exhibit No. 95, Witness Grady, marked for identification.)

THOMAS E. GRADY was sworn and testified as follows:

Direct examination.

Q. Will you state your name and address for the record, please Mr. Grady?

A. My name is Thomas E. Grady and my business address is Ingraham Building, Miami, Florida.

Q. Was the exhibit which has been marked for identification as No. 95 prepared under your supervision in your office?

A. Yes.

Q. Does your testimony and written statement show the sources from which the information was obtained?

A. Yes, sir.

Q. Is this exhibit true to the best of your knowledge and belief?

A. It is.

Mr. Hillyer: Copies of Mr. Grady's exhibits and testimony have been distributed to all parties.

By Mr. Hillyer:

Q. Please proceed with the presentation of your prepared statement, Mr. Grady.

A. I have had 27 years experience in freight-traffic management, and in the preparation of rate exhibits and traffic [fol. 1904] studies which have been introduced in evidence in cases before the Interstate Commerce Commission, the Railroad Commission of Florida, the Maritime Commission, and other tribunals. At the present time I am employed as the manager of the Greater Miami Traffic Association, a voluntary organization of commercial business men of Miami and its environs, and the City and County Governments.

In this Class Rate Investigation, I.C.C. 28300, I have made certain studies which have a bearing upon the interstate class-rate structure between peninsula Florida and all states north and east of Florida, including Official Classification territory. Special studies which I have made show to my mind that the continuation of the Florida class-rate arbitraries, as additions to the Southern Class Rate scales on interstate class-rate traffic to and from peninsula Florida is impracticable, and no longer justifiable.

The particular phase of this subject which was assigned to me was to study and report to the Florida Railroad Commission upon the competitive influence of water transportation upon the rail movement of traffic to and from points in Florida, and the volume of water-borne commerce handled through Florida ports.

My studies have been prepared in the form of exhibits, which have been numbered consecutively, indexed, and bound together under one cover. The volume has been [fol. 1905] offered for identification as Grady's exhibit No. 95, consisting of 46 pages. These exhibits were prepared in my office in part by me and in part under my direct supervision. Each of the pages of my exhibit bears a notation showing the source of information therein contained. All of the sources of the data and figures which I have accumulated in these exhibits are matters of public record, and are available in the various departments of the Federal Government. Some of the information, as to schedules of sailings and traffic, are based in part upon information from government publications and tariff schedules on file with the I.C.C. or the Maritime Commission, and in part upon my own

knowledge, gained by constant and daily study of the movements of traffic to, from and between Florida ports. The facts and figures set forth in my exhibit are true and correct to the best of my knowledge and belief.

These exhibits of mine support the following conclusions of fact, which I have reached: That Florida's unique geographical shape and location have had and will have a marked and controlling competitive influence upon the movement of freight traffic by railroad between Florida and other states; that the existence of the Florida arbitraries, added to the Southern Class-rate scales, has had the effect of diverting vast tonnages of freight traffic from the railroads to the ocean steamship lines and inland waterway carriers; [fol. 1906] and discouraging the development of manufacture in Florida; that the growth of Florida in freight tonnage has been so great that Florida should no longer be considered as a "Differential Territory" in railroad freight rates.

Florida's geographical position is unique. The first two pages of my book of exhibits show that Florida has more deep-water ports, and a far longer ocean coastline, than any other state in the Union. Page 1 is a list of Florida's 18 deep-water ports, commencing with Fernandina, on the north, on the Atlantic Ocean, and extending around to Pensacola, on the Gulf Coast. The distances from each port to the next port are shown in detail. The total ocean-gulf-coast-line distance is one thousand three hundred fifteen miles. This is far greater than the coast-line distance of any other state.

Page 2 of my book of exhibits shows the ocean-line distances of other coastal states on the Atlantic Ocean, the Gulf, and the Pacific Ocean. Of the 22 states bordering upon the Oceans and the Gulf, Florida has the longest ocean-line —1,315 miles. Next comes the state of Washington, with 1,047 miles. All other states have less than 1,000, New Hampshire has only 12 miles. Even the great state of Texas, which has an enormous land-area, has only 602 miles of ocean-line, which is less than half the ocean-line of Florida.

Seventy-seven percent of Florida's urban population is [fol. 1907] located on navigable waterways. My next pages 3, 4, 5, and 6, show that Florida's unique geographical shape and position bring the entire population of the state within a very short distance of the Atlantic Ocean, the Gulf, or

landings or navigable waterways. In this respect Florida stands alone, and is unlike any other state in the Union.

Furthermore, there are actual and extensive water carrier services, or were prior to the present war conditions, available to and availed of by most of the cities and towns of Florida. The water competition is widespread, and highly developed, and is actual and keen—not potential by any means. From my own knowledge I can say positively that in no state of the Union is there so much actual water competition, which the railroads must meet, as in Florida.

Pages 3, 4, and 5 show the cities and towns of Florida having a population of 1,000 persons or over, as reported by the 16th Census of the United States for 1940. The cities are arranged in two groups. The first group consists of cities and towns which are located directly upon navigable waterways. There are 60 cities or towns on page 3, located directly on waterways. Their total population is 879,367 and this constitutes 77 per cent of the total urban population of the state of Florida.

Page 4 and the top section of page 5 show the cities and towns which are not immediately located on waterways; [fol. 1908] together with the distance in miles to the nearest waterway point or port. On page 5 it will be noted that the average distance from Florida towns with 1,000 population or over to the nearest port or waterway is only 39 miles. These interior towns constitute 23 per cent of the urban population of the state. Page 5 also shows, for distances ranging from 10 miles to 90 miles, the percentage of the urban population of the state which is located within a given number of miles of a port or waterway point. Seventy-nine per cent are within 10 miles of waterways; and 96 per cent are within 50 miles, and 99 per cent are within 90 miles of waterways.

Florida's excellent system of highways places practically the entire commercial population of the state within a maximum truck-haul of 90 miles to the nearest deep-water port or point upon a navigable and commercially used waterway point or landing. My examination of the geographical situations in other states discloses that in no other state is there a situation comparable to that portrayed by pages 3, 4, and 5 in Florida.

Page 6 shows deep water ports and waterway points which were used in computing the distances from the interior towns to the nearest waterway point. These are 28 of these

waterways, which have actual and existing services of common and contract carriers by water.

Attention is directed to the fact (shown on page 3) that [fol. 1909] every large city within the state of Florida is listed among those which have deep-water port facilities. On pages 4 and 5, it will be noted that Orlando, 36,736, Lakeland 22,068, and Tallahassee 16,240, are the only cities of any substantial size in Florida which are not directly served by water-carriers. These are only 19, 34 and 25 miles respectively from waterways. All other towns in Florida with populations of over 5,000 are directly served by waterway carriers. This situation in Florida is wholly unique, among the states of the Union.

Pages 3 to 6 show that seventy-seven per cent of Florida's urban population is located upon navigable waterways and the remaining twenty-three per cent is within an average truck-haul of thirty-nine miles of navigable waterways. Florida's water-borne tonnage has grown to enormous proportions.

A special study was made of all available statistics to determine the extent and character of Florida's water-borne commerce which has been moving through the Florida ports. The next 8 pages of my exhibits are based upon data contained in a publication of the Corps of Engineers, U. S. Army, entitled, "Port and Terminal Charges at United States Seaports, Miscellaneous Series No. 1, 1940 edition." From that publication I have taken off statistics covering Florida's 12 principal ports,—Fernandina, Jacksonville, [fol. 1910] Ft. Pierce, Palm Beach, Port Everglades, Miami, Key West, South Boca Grande, Tampa, Port St. Joe, Panama City and Pensacola.

Pages 7, 8, 9, 10, 11, 12 and 13 show, for each of these 12 major ports, the water-borne commerce in tons in Florida for the years 1934 to 1940 inclusive, with the break-down of foreign commerce as between imports and exports; with the break-down of domestic commerce as between coastwise receipts and coastwise shipments; and with the internal water commerce, exclusive of local and intraport commerce, with the total tons for each year and for each port.

Page 14 is a summary of the aggregate total tons by years taken from pages 7 to 13 inclusive. The terms used on these pages of exhibits are explained as follows: "Imports and exports"—these terms apply to traffic between the United States and foreign ports, including the Philip-

pine Islands and the Canal Zone. Traffic with Canada on the Great Lakes is supplemented by the term "Canadian" to differentiate it from "overseas" traffic. "Coastwise receipts and coast-wise shipments"—these terms apply to the traffic receiving a carriage over the ocean, the Gulf of Mexico, or important arms of the Oceans or the Gulf of Mexico, with the exception of Chesapeake Bay and Puget Sound localities, and also to traffic with Alaska, Hawaii, and Puerto Rico. Traffic between Great Lakes ports and seacoast ports is also termed "coastwise".

[fol. 1911] "Internal receipts and shipments"—traffic between a port and a tributary waterway is called internal, an example being a movement between Philadelphia and a locality on the Delaware River below. "Local"—movements of freight within the confines of a port, except car ferry, general ferry, and cargoes in transit, are termed "local". The movements are recorded but once and therefore no duplication of the traffic results. The term is also applied to marine products, and gravel taken directly from beds of waterways, the oceans, the Gulf of Mexiso and important arms thereof, and from the Great Lakes.

Pages 7 to 14 show that the grand total tons shown for these 12 ports for the years 1934 to 1940, inclusive, are shown on page 14, about seventy-two million tons in seven years, or an average, for seven years of about ten million three hundred thousand tons at twelve ports. The aggregate total shown on page 14 includes only the tonnage of twelve ports. Statistics are not available for each year for all of the ports. However, we are able to procure the complete water-borne tonnage of the state as a whole including all ports and waterway points for the year 1939. That total, of course, is much in excess of the total of the twelve ports shown on pages 7 to 14 inclusive, for 1939.

Florida's total water-borne commerce for the year 1939: Regarding 1939 as a fair year to be used as the most recent [fol. 1912] of normal years in determining the extent of Florida's total water-borne commerce there has been reproduced on page 15 of my exhibit the total water-borne freight traffic commerce for the state of Florida for the year 1939 taken from the annual report of the Chief of Engineers, U. S. Army, Part II, 1940, showing the separation between exports, imports, coastwise receipts, coastwise shipments or other domestic tonnage except internal and local tonnage. The total is slightly over sixteen million tons.

In my files I have the complete details taken from the U. S. Army Engineer's Report showing the break-down of these tonnages for 1939 according to each of the ports on waterways in Florida and these details are available to anyone who desires to check the figures on my page 15.

Florida ranks high in foreign water-borne commerce among the coastal states. Page 16 of my exhibit has been prepared from the U. S. Maritime Commission's Division of Research Report No. 42 for the year 1937 to show how Florida has grown in importance among the 28 border states of the Union in total water-borne foreign commerce.

This exhibit shows the total foreign commerce, in tons, of each of the border states, broken down between imports and exports. Page 16 shows that Florida ranks 9th among the 28 coastal border states of the United States in water-borne foreign commerce for the year ending June 30th, [fol. 1913] 1937. In total tons of exports and imports Florida ranks ahead of Virginia, Alabama, Georgia, South Carolina, North Carolina, Mississippi, in the order named.

Florida's foreign tonnage for that year was more than double that of Alabama; nearly three times that of Georgia; nearly four times that of South Carolina; and nearly nine times that of North Carolina. Page 16 further shows that Florida's water-borne foreign commerce in 1937 exceeded the combined tonnage of Maine, New Hampshire, Rhode Island, Connecticut, New Jersey and Delaware. The only states between Maine and Florida which exceeded Florida were New York, Maryland, Pennsylvania and Massachusetts. Florida ranks next to Massachusetts. In 1937 Florida ranked 5th on the entire Atlantic Coast from Maine to Florida in tons of foreign water-borne commerce.

Pages 17 to 21, inclusive, show import and export water-borne commerce at 12 principal Florida ports for the year ending June 30, 1937 broken down into the principal commodity groups; and also show the total value and total tons of 2,240 pounds for each of the 12 ports. Pages 22 to 27, inclusive, show the water-borne foreign commerce which moved through the respective Florida ports for the year 1939, in tons of 2,000 pounds, broken down beyond the main commodity groups into individual commodities at each port.

Pages 28 and 29 show a similar breakdown by individual [fol. 1914] commodities of the waterborne foreign commerce moving by Ocean Car Ferry through Port Everglades for the year 1939. Most of this traffic is "overhead" traffic;

that is, traffic moving between other states and Cuba, and contributing to the traffic density in Florida, but not originating or terminating in Florida. The movement in 1939 was 117,839 tons exported and 31,433 tons imported; total, 149,272 tons.

Pages 30 to 35, inclusive, show a similar breakdown by individual commodities of the water-borne foreign commerce moving through the three largest port-cities of Florida, namely Jacksonville, Miami and Tampa, during the year 1939. These exhibits show the wide range and diversification of the articles moving in water-borne foreign commerce through Florida ports. Pages 17 to 35 show the breakdown in tonnage by individual commodities.

Florida's domestic water-borne commerce, coastwise tonnage: My next series of exhibits show the domestic water-borne tonnage moving between Florida ports and other ports. Page 36 shows the tonnage between each principal Florida port and the Atlantic ports for the year 1939 in tons of 2,000 pounds. The aggregate is a little over 3,000,000 tons.

All of this traffic is competitive with all-rail and rail-water routes; and the rail and rail-water rate structures between North Atlantic and Florida ports show marked influences of this water competition via the Atlantic Ocean.

[fol. 1915] Page 37 shows the coastwise tonnage between Gulf ports and Florida ports for the year 1939. The aggregate is over three and a half million tons. Page 38 shows the intercoastal tonnage between Florida ports and Pacific Coast ports, moving through the Panama Canal during the years 1937, 1938, 1939.

Much of this water-borne intercoastal traffic is directly competitive with the transcontinental all-rail lines and the transcontinental rate-structure shows the marked influence of this water competition. Some forest products, for example, have been moving both via the Panama Canal and via all-rail routes from the North Pacific Coastal producing points to Florida.

Other studies are available showing the breakdown by commodities of the tonnage moving in Atlantic Coastwise, Gulf and Intercoastal trade to and from Florida ports due to their volume and bulk they were omitted from this series of exhibits. They are available for inspection if desired.

Florida's water carrier services are extensive. My study of the actual and existing water carrier services, just prior to the war conditions brought about by the appearance of German U-boats off the coasts of Florida, shows that: The principal ports on the Atlantic Coast maintaining regular steamship service are Jacksonville, Fort Pierce, Port Palm Beach, Port Everglades, Miami and Key West, Florida, [fol. 1916] while the principal ports on the Gulf Coast maintaining regular steamship service are St. Petersburg, Tampa, St. Marks, Port St. Joe, Apalachicola, Panama City and Pensacola. There is also regular steamship service on the St. Johns River and Lake Monroe at Federal Point, Palatka, Welaka, Fort Gates, Georgetown, Drayton Island, Astor, Deland, and Sanford, Florida. There is a regular steamship service maintained over the intracoastal waterways between Jacksonville and Miami serving the following points: Daytona Beach, Titusville, Cocoa, Melbourne, Vero Beach, Fort Pierce, Port Everglades, and Miami, Florida.

There is water-borne freight traffic on practically all of the waterways in the state of Florida. The traffic from the generally unrecognized ports is transported mainly by companies engaged in business as private or contract carriers. Illustrations of this service *is* shown by the Corps of Engineers, United States Army Transportation Series No. 5, "Transportation Lines on the Atlantic, Gulf, and Pacific Coast, 1940." as follows: Belcher Towing Company: Contract carrier of petroleum products; Jacksonville, Port Everglades, and Key West via intracoastal waterways, New River, South New River Canal, Dania cut-off canal, Lake Okeechobee, Fort Pierce. Daniels Towage & Salvage: Contract and private carrier of bulk freight machinery and equipment; Miami Harbor, intracoastal waterways, [fol. 1917] Jacksonville, Key West, Miami and New River, Port Everglades, Lake Okeechobee, Palm. Beach, South New River Canal. Florida Towing Company: Contract carriers of gasoline, groceries and fertilizer: Jacksonville to Brunswick, Georgia, and Fernandina, Florida, via intracoastal waterways. Mexican Petroleum Corporation: Carriers of petroleum products: Tampa, St. Petersburg, Hillsborough Bay, Port Tampa, Palmetto, Manatee River, Sarasota, Sarasota Sound, Florida. Powell Brothers, Inc.: Contract carriers of equipments, steel, rock, sand, et cetera: South New River Canal, Hollywood Harbor, Miami, New

River, Jacksonville, Tampa, Lake Okeechobee, Caloosahatchee River, Florida. Sea Coast Oil & Supply Company: Private carriers of petroleum products: Savannah, Brunswick, Georgia, Sapelo Island, Beaufort, Port Royal, South Carolina, Fernandina, St. Augustine, New Smyrna, Jacksonville, Florida. Shell Producers Company: Contract and private carriers of petroleum products and construction materials: Galveston, Texas, New Orleans, Louisiana, Mobile, Alabama, Pensacola, St. Marks, Tampa, Fort Myers, Lake Okeechobee, Miami, Jacksonville. Water transportation Terminals, Inc.: Contract carriers of newsprint paper, sugar and bags: Savannah, Georgia, to Clewiston, Florida, via intracoastal waterway and Caloosahatchee River, drainage areas. Citizens Oil Company: Private carriers of petroleum products: New Orleans, Louisiana, to St. Marks, Freeport, and Tarpon Springs.

[fol. 1918] In view of the fact that practically all foreign steamship services, with the exception of lease-lend cargo, have been suspended for the duration, no detailed analysis of the foreign steamship lines operating to and from Florida ports has been included in my exhibits.

My pages 39, 40 and 41 show the coastwise services between Florida ports and the Atlantic Coastal ports, with the sailings per week southbound and northbound. All of these services have been suspended for the duration. Pages 42 and 43 show the coastwise services between Florida ports and Gulf ports with the sailings per week by the various lines.

Pages 44 and 45 show the intercoastal services between Florida ports and the Pacific Coast ports with the names of the steamship lines and the period of the sailings. There was omitted from these pages, due to lack of definite information at the time the exhibits were prepared, the services of the Arrow Line between Florida and the Pacific Coast ports. All of these intercoastal common carrier water services have been discontinued for the duration.

Pages 46 and 47 show the names of the water carriers and the sailings per week between landings and representative inland waterway points in Florida and indicate the through freight interchange services between these waterway points and deep-water ports located on the intercoastal waterway. For example, this page shows the operations between San-
[fol. 1919] ford, Florida, and Jacksonville, Florida, on the St. Johns River, with the sailings per week and also the

connections made by the River Line with the ocean lines of the Merchants & Miners Transportation Company operating between Jacksonville and North Atlantic Ports. The water lines shown on pages 46 and 47 are common carrier inland waterway lines which publish and file tariffs with the Interstate Commerce Commission and the Railroad Commission of Florida.

In addition, there are all-water inland waterway rates and motor-water rates between Brunswick, Georgia, Jacksonville, Florida, and water-landings at interior Florida, points such as Orlando, Tampa, Ft. Myers, Lake Wales and Naples. These water-motor rates reflect differentials under the all-motor and all-rail rates. The motor rates intrastate do not include the addition of the L-2 arbitraries to the class-rate scale.

This all-water competition extends from Jacksonville to Sanford, Florida, in the central part of the state, 126 miles south of Jacksonville, while the water-motor competition extends to such points as Tampa, Fort Myers, Lake Wales and Naples for distances up to 328 miles south of Jacksonville

Other water rates of common carriers are in effect over other inland waterways and rivers and navigable streams in various portions of the state of Florida. For example, there is water service over the intracoastal waterway by common [fol. 1920] carriers extending all the way from Jacksonville, Florida to Miami, Florida, a rail distance of 366 miles. Many of the rail rates have been reduced to meet water competition within the state of Florida. These inland waterway common carrier services have not been discontinued because of war conditions and are more active than formerly.

In addition there are quite a number of contract and private carriers along the inland waterways on the east and west coasts of Florida and on the other rivers and navigable streams of Florida. These contract and private carriers handle a heavy tonnage of products of various kinds and their operations have been increased, rather than restricted, during the war. Efforts are being exerted in many sources to make greater use of these inland waterways because of the curtailment of coastwise ocean and Gulf steamship services.

These pages 39 to 47, inclusive, portray in a general way, the fact that water competition via ocean and Gulf

ports has been keen and important prior to war conditions and that water competition via inland waterways and navigable streams has been a potent factor and is now more important than ever before.

It is my opinion that the existence of the Florida arbitraries in the class rates and articles taking rates based upon the class rates have had a marked influence upon the development of coastwise and inland water transporta-
[fol. 1921] tion particularly in the state of Florida, and has resulted in reducing the traffic which the railroads otherwise would have handled, if the Florida arbitraries did not exist.

Q. Mr. Grady, does your Traffic Organization in Miami furnish traffic service to many industries within the greater Miami area?

A. Yes, a great many.

Q. Are there few or many small manufacturing plants within that area?

A. There are quite a few small manufacturing plants in the greater Miami area.

Q. Have any of those plants or their managers made any complaint to you with respect to the class rate level between Miami and Central territory and the North?

A. They have.

Q. How long has that been going on?

A. Ever since I have in Florida, since probably 1926.

Mr. Hillyer: We offer in evidence exhibit No. 95, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit No. 95? (No response.) Without objection it is received.

(Exhibit No. 95, Witness Grady, received in evidence.)

Mr. Hillyer: The witness is tendered for cross-examination.

[fol. 1922] Chairman Aitchison: Mr. Gwathmey.

Cross-examination.

By Mr. Gwathmey:

Q. Mr. Grady, your testimony as I understand it, has been devoted mainly to the purpose of showing that there are exceptional opportunities for water transportation to and from and between points in Florida, is that right?

A. There have been in the past.

Q. At the present time the coastwise water lines are out of business, are they not?

A. That is true.

Q. When they were operating, do you happen to remember what the first class all-water rate was from Miami to Baltimore?

A. No. I do not know. You mean, in connection with rail?

Q. All-water, I said.

A. No. I do not know.

Q. Do you know that the all-water rates from Miami to Baltimore, for example, were very much below the level of the all-rail rates?

A. That is right.

Q. If the Florida arbitrary had been eliminated entirely, would not the all-water rate still have been much below the all-rail rate?

A. From that particular point, yes.

Q. If they had cut the Florida arbitraries out and reduced [fol. 1923] the Florida level 25 per cent, would not those rates be lower than the all-water rates?

A. Are you talking about port to port rates?

Q. Yes.

A. That is true.

Q. You will agree with me, will you not, Mr. Grady, that there are certain limits below which the railroads cannot go in attempting to meet water competition?

A. Well, the railroads in some points have gone pretty far to meet water competition. For instance, take the point you were just talking about, from Baltimore to Miami.

Q. I am asking you if the railroads are not prohibited, if they want fourth section relief, from going to a point which yields them less than the out of pocket cost?

A. That is right.

Q. Are you willing to leave it to the judgment and discretion of the railroad managers to decide for themselves when in their own interest they will or will not undertake to meet water competition?

A. No, sir.

Q. Why not?

A. Well, because the shipper who pays the freight—for instance, down in Miami the members of my organization

pay 60 per cent of all freight charges of the Florida East Coast. I am not willing to sit down and let a man from [fol. 1924] the Florida East Coast say when they are going to increase or decrease rates without approval by the Commission on interstate traffic.

Q. Do you think that the Interstate Commerce Commission should require the railroads to reduce their rates—

Chairman Aitchison: That is utterly immaterial.

Mr. Gwathmey: Sir?

Chairman Aitchison: That is utterly immaterial.

Mr. Gwathmey: Very well, sir. One more question.

By Mr. Gwathmey:

Q. Did this same availability of water transportation around Florida which obtains now exist at the time when the Southern Class Rate Case was decided?

A. To a small extent, yes.

Q. Well, the same rivers were there, were they not, and the same harbors and the same ocean?

A. No, not the same harbors and not the same rivers. A great many of the rivers have been developed and a great many harbors have been developed.

Mr. Gwathmey: All right. That is all.

Chairman Aitchison: Is there any further cross-examination?

Mr. McCollester: I have one or two questions.

By Mr. McCollester:

Q. Mr. Grady, in answer to the last question of your counsel you stated that there were a great many industries in the Miami region manufacturing different com- [fol. 1925] modities.

A. Yes.

Q. Will you state what articles are manufactured by those industries?

A. I said, a great many small manufacturers.

Q. Yes.

A. We manufacture in a small way cigars. We manufacture novelties. We manufacture pulp board. We manufacture pocketbooks.

Q. Those are alligator skin pocketbooks?

A. Yes.

Q. Yes.

A. We also manufacture at a small plant diving helmets. In case you want to jump into the Bay, you can use one of those.

Q. Is that all you can think of?

A. (No answer.)

Q. Does that complete your list?

A. That is about it.

Mr. McCollester: Thank you.

Chairman Aitchison: Is there any further cross-examination? (No response.) Mr. Hillyer?

Redirect examination.

By Mr. Hillyer:

Q. Do you not have some small specialized furniture manufacturing plants in the Miami area?

A. Yes.

[fol. 1926] Do you not have quite a number of mill working plants making sash, doors and things of that kind?

A. That is mostly for local consumption, but we have them. We are manufacturing in quite large quantities portable houses that are going all over the state.

Q. Is there quite a large list of commodities made of natural forest products?

A. Yes.

Q. In the Miami area?

Mr. Hillyer: That is all on redirect.

Chairman Aitchison: Are there any other questions of Mr. Grady? (No response.) You may step aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Hillyer: Our next witness will be Dr. Eutsler. Dr. Eutsler has no exhibit for introduction in evidence in this case. His written testimony has been circulated to all parties present and circulated in advance.

Chairman Aitchison: Raise your right hand and be sworn.

ROLAND B. EUTSLER was sworn and testified as follows:

Direct examination.

By Mr. Hillyer:

Q. Dr. Eutsler, will you please proceed with your statement in your own way?

A. My name is Roland B. Eutsler. I live in Gainesville, [fol. 1927] Florida, the seat of the University of Florida. Since 1935 I have been a member of the faculty of the College of Business Administration of the University of Florida and have also served, since 1940, as Director of the Bureau of Economic and Business Research, University of Florida.

I am a native of Danville, Virginia. I attended public schools in Greensboro, North Carolina, and Charlottesville, Virginia, and the University of North Carolina where I received the degree of Bachelor of Science in Commerce and Master of Science in Commerce. I then served as Research Assistant in the Institute for Research in Social Science at the University of North Carolina. I was a member of the faculty in Economics at Washington and Lee University. Later, I attended the University of Pennsylvania and received the degree of Doctor of Philosophy in Economics.

I then became a member of the faculty of the Wharton School of Finance and Commerce of the University of Pennsylvania. At the request of the State Government, I was given a leave of absence to serve as Assistant Director, Division of Research and Statistics, Pennsylvania Emergency Relief Board, where I was employed when I accepted the appointment at the University of Florida.

I am co-author, with G. Lloyd Wilson and James M. Herring, of two books entitled, "Public Utility Industries" and "Public Utility Regulation". I have contributed articles to [fol. 1928] scientific and technical journals including an article entitled "Transportation Developments and Economic and Industrial Changes" in the volume of the Annals of the American Academy of Political and Social Science dealing with "The Coming of Industry to the South".

At the request of the State Government and the Railroad Commission of Florida, upon the President of the University of Florida, I was assigned to making special economic studies of the relation between the development of the manufacture of high grade commodities in Florida and freight rate

structures and the influence of freight rates upon the area of distribution of Florida products.

In order to carry out these studies, there were selected several illustrative industries. The manufacture of palmetto fiber is an industry using a Florida produced, weight losing raw material and is in competition with various imported fibers. Rattan furniture was selected as a highly skilled craft industry wherein manufacturers, wherever located in the United States, are dependent upon imported raw materials. Citrus candy was selected as another product using local raw materials and high grade skilled labor. Wood furniture illustrates a machine industry.

In making my studies for the purpose of the Class Rate Investigation, there has been made available to me the technical rate exhibit studies of Mr. T. C. Maurer, Traffic Man-
[fol. 1929] ager, Jacksonville, Florida; the traffic studies prepared by Mr. J. H. Donnell, Traffic Manager, Tampa, Florida; and the water commerce studies prepared by Mr. Thomas E. Grady, Traffic Manager, Miami, Florida. I have also had available the exhibits and testimony of Dr. Ford K. Edwards and Mr. Jensen of the Interstate Commerce Commission.

Mr. Gwathmey: I object to all of the testimony contained in this statement commencing at the top of page 3 with the heading "Studies of Particular Manufacturing Plants in Florida", and extending to the end of the statement on the ground it is the purest sort of hearsay testimony. It will be observed that commencing with page 4 the witness takes up certain individual industries. According to his own statement he is a member of the faculty of the University of Florida. He says he has been requested by the Railroad Commission to interview certain manufacturers of commodities who are operating in Florida, and based upon the information which he has obtained from these manufacturers, he undertakes to testify at great length with respect to their costs of production, processes of manufacture, competition, and everything else connected with their business, all leading up to a conclusion that they have been unable to do business on account of certain freight rates. I submit that it is purely hearsay and we have no opportunity whatever to cross-examine this witness or to test the accuracy of the witness' testimony.

[fol. 1930] Chairman Aitchison: Well, if we followed that rule, we would never be able to conclude one investigation.

If it were necessary to call every individual person whose vital statistics figure in a census taken by a responsible public officer, we never would be able to try any proceeding. You would not be able to make out your own case in an increased rate case. It seems to me from a cursory examination of this exhibit, in as much as he says these studies were carried out by personal investigation, that it is entirely competent. You will have ample opportunity to test its weight on cross-examination.

Mr. Gwathmey: May I say one more word, Mr. Chairman?

Chairman Aitchison: Yes.

Mr. Gwathmey: If the facts that are set forth by the witness are conceded to be true and correct, we have no opportunity to cross-examine anyone upon the question as to the bearing which these facts may have had upon the ability of the manufacturer to do business or as to the effect of freight rates on his business.

Chairman Aitchison: You can cross-examine the witness on that.

Mr. McCollester: I join in the objection, if your Honor please. Of course, I realize, as we all do, that in a proceeding before the Commission there must be reasonable latitude in the observation of the rules of evidence; but that [fol. 1931] very necessity for reasonable latitude also puts limits, it seems to me, on what may be permitted. When we have a situation like this where a witness comes here and on the basis of what some manufacturer has told him, attempts to state to this Commission that that manufacturer cannot do business in competition with a manufacturer in the state of New York, I submit that such testimony should not be allowed because we are not in a position to test out the correctness of the statements of the manufacturer.

Chairman Aitchison: He says he went into the——.

Mr. McCollester: It is those statements with which we are concerned.

Chairman Aitchison: He says he went into the records of these corporations, or these companies, whatever they are.

Mr. McCollester: Mr. Chairman, I do not see how, when he talks with a business man and says, "Can you sell your goods in Chicago in competition with the New York manufacturer" he can then come in here and say to you that the manufacturer could not sell in Chicago in competition with

the New York manufacturer, and that is to be accepted by you as the basis of the fixing of freight rates. I submit that if ever there was a situation where the hearsay rule should apply in a proceeding before the Commission, it is in this kind of testimony. I join in Mr. Gwathmey's objection.

Chairman Aitchison: I do not think this is hearsay at [fol. 1932] all. This is the result of an investigation by the witness himself where he has had access, as he says here, to facts and figures based upon the original records. He has made a personal investigation. We have to assume that is true, that he has done that, and if so, it is not hearsay. It is primary evidence.

Mr. McCollester: Then your idea, if your Honor please, of what is primary evidence and what is hearsay, is very different from mine. I submit it is plainly objectionable.

Chairman Aitchison: Your objection has been noted on the record.

Mr. Hillyer: In view of the fact that there may be some contest at some future date over this point, may I further qualify the witness?

Chairman Aitchison: Yes.

Mr. Hillyer: It is not necessary in view of the ruling, but I thought perhaps the record should show a little more as to his qualifications.

Chairman Aitchison: Very well.

By Mr. Hillyer:

Q. For several months past, have you devoted your whole time to the investigation of these particular industries described in your testimony?

A. I have devoted much of my time; not my whole time during the last several months, but almost all of the working days during that time.

[fol. 1933] Q. During that time you had no regular class duties at the University?

A. During part of the time I had no regular class duties. During part of the time I was teaching at summer school.

Q. Did you actually go to the various plants which you have named here?

A. I have been to the plants and I went into the plants themselves.

Q. Did you go through the plants and watch the nature of the operations?

A. Yes, sir.

Q. Did the executives of those companies understand the purpose of your investigation?

A. Yes, sir.

Mr. McCollester: Do you know? I submit the witness cannot state what somebody else understood, if your Honor please.

By Mr. Hillyer:

Q. Did you make it plain to them, the purpose of your investigation?

A. Yes, sir.

Q. Did they authorize your appearance here for the purpose of this case?

A. They gave me the facts and figures to present in connection with this case, yes, sir.

Q. In your statement there are certain conclusions as to [fol. 1934] the effect of freight rates on their business.

A. Yes.

Q. Are those conclusions your own based upon the studies which you have made?

A. They are.

Mr. Hillyer: I submit the witness is fully qualifie to draw his conclusions from facts and he is fully able to meet cross-examination.

Chairman Aitchison: Very well. The objections are overruled.

By Mr. Hillyer:

Q. Please proceed with the balance of your statement, Dr. Eutsler.

A. As I have already said, my studies were carried out by personal investigation of the manufacturing processes and the present production and distribution of the products manufactured in the selected industries. The facts and figures which I shall present with respect to these industries are based upon visits to the manufacturing plants located at Jacksonville, Cedar Keys, Benson Junction, Tampa, Palatka, and Davenport, Florida. During these visits, the influence of the class rate structures upon the areas of distribution of the products of these plants was discussed at great length and great detail with the executive officers of the plants. I also went through the plants and viewed the plant operations.

[fol. 1935] Information for the studies was derived by extended cross-table analyses of the intimate affairs of these companies with executives of these companies who have had long years of experience and the records of their businesses were available to them. Facts and figures based upon their original records were made available to me. Some of the facts and figures must be given for the industries as a whole in order not to divulge trade facts of particular plants at particular locations.

The freight rates on the articles comprising these studies were taken from the rate exhibits prepared by Mr. T. C. Maurer, Traffic Manager, Jacksonville, Florida. All of the rates which are used in my computations are taken from Mr. Maurer's exhibits and specific reference will be made to Mr. Maurer's exhibit number as authority for rates, ratings, and descriptions. These special studies were conducted at palmetto fiber plants in Jacksonville, Benson Junction and Cedar Keys (shipping point, Otter Creek); rattan furniture at Tampa, Florida; bedroom and dining room furniture at Palatka, Florida; and crystallized citrus candies at Davenport, Florida.

There are three manufacturers of palmetto fiber in Florida. There are other brush manufacturers located in various parts of the state. My studies of the manufacture and distribution of palmetto fiber were made at Jacksonville, [fol. 1936] Florida, in the plant of the Wooten Manufacturing Company; the plant of the Ox Fiber Brush Company at Benson Junction, Florida, which is near the central portion of the state, near Sanford, Florida; and the plant of the Standard Manufacturing Company at Cedar Keys, Florida, on the Gulf Coast in the central part of the state. The shipping point nearest Cedar Keys is Otter Creek, Florida.

Palmetto is a vegetable fiber produced from the boots (leaf sheaths) of the cabbage palm tree. The cabbage palm is native to Florida and grows extensively in the lowland, swampy areas along both coasts and there are substantial growths in some of the higher land areas of the interior. There is no official estimate of the acreage of land covered by cabbage palms. Various representatives of governmental agencies indicate the supply is virtually inexhaustible since the mature tree grows to a height of forty feet or more and scatters seed over a wide area. The supply of cabbage palms is more than ample to provide raw materials

for the quantity of palmetto fiber ordinarily used in the brush trade and a larger proportion of brush fibers could be supplied from this source. A continued supply of Florida palmetto fiber can thus be expected indefinitely.

Palmetto fiber is obtained from the boots (leaf sheaths) of young cabbage palm trees of 5-6 years old. These young trees are called "Cabbage Buds". These "cabbage buds" [fol. 1937] are cut at a height of 4 to 6 feet and are surrounded by boots (leaf sheaths) of which 21, in units of 3, are added each year. The weights of "buds" run from 60 to 100 pounds. They are from 3 to 5 feet in height and 8 to 12 inches in diameter at the base.

The cabbage buds are cut even with the ground, the palmetto leaves trimmed off, and shipped in that form to the fiber plants. Some buds are obtained from lands leased by the manufacturing plants with cutting done by contractors; in some cases the fiber company has its own crew of loggers; and some cabbage buds are bought from independent cutters. Cutting areas for the cabbage buds run along the lowlands of both coasts. Most of the buds on the East Coast are cut from Bunnell southward into the Everglades. On the Gulf Coast, most of the logging is done within a hundred miles north and south of Cedar Keys.

The buds are moved to the manufacturing plants by motor truck; railroad, in car lots; and by barge. Motor truck shipments were extensively used by the Benson Junction factory though at present it receives its supply almost entirely by rail. The Jacksonville plant receives its supply by rail. The factory at Cedar Keys receives its supply by barges operated by itself.

The buds are placed in vats, holding from 400 to 1100 buds, where they are cooked by indirect heat in boiling water [fol. 1938] for 60 hours. This cooking is necessary to permit the boots to be separated from the stalk and to soften the covering of the boot so that the commercial fibers which run lengthwise through it can be separated from the softer tissues and fibers making up the boot. These latter, at present, are waste materials and are burned in the boiler by two of the plants and the third is using it to fill in the land and enlarge the area of his plant located on the Gulf Coast at Cedar Keys. There are possibilities of use of the soft, matty fibers as upholstery filling or padding material but this has not yet been developed. The three plants in Florida have 16 vats for "cooking" the buds, making it possible to

handle between 4,000 and 5,000 buds per day. About 1½ per cent of the weight of the bud is commercial fiber and the daily maximum output runs between 5,000 and 7,000 pounds. The annual output is between 1,000,000 and 1,500,000 pounds, though operation to capacity could produce substantially more.

The industry is in no way seasonal. There is nothing about the botanical characteristics of the "cabbage bud" which affects the quality or yield of fiber by being cut at different times of the year. The only supply factor affecting the continued operation of the fiber plants arises from heavy rainfall which makes cutting the buds in the woods difficult and sometimes impossible. Due to the fact that the [fol. 1939] young palmetto bud is comparatively hollow and the "heart" or bud is soft, it begins to decompose in several weeks after being cut and this decay spreads to the boots and ruins the fiber. Storage of a supply of raw material is thus not feasible. Wet conditions limiting the cutting of buds do not occur normally more than several times per year and ordinarily do not last very long.

When taken from the vats, the boots are torn apart and are then run through a mechanical decorticator which shreds out the soft, matty, horizontal, inter-twining fibers. A washing water is directed on the boot during this operation as the stiffer, vertical palmetto fiber is extracted. The vertical fiber runs the entire length of the boot from its base to the outer edge. In each boot, therefore, there will be some short and some long fibers, the maximum length being approximately 24 inches. Some rough sorting of fibers by length can take place in this operation by getting boots of the same length together.

After washing and extraction, the fiber is dried, one factory doing it by a drying machine and the other two by spreading it out in the sun. After drying, the fiber is immersed in paraffine oil to give it resiliency and prevent it from being brittle. It is then sorted by length, color, and size (diameter) since these are the characteristics of the fiber affecting its use. There are no trade specifications [fol. 1940] for the fiber, each manufacturer sorting according to his own specification for the grades which it sets up and which it uses in quoting prices.

Palmetto fiber is of a leather tan, or ox-blood color. It is used primarily in the manufacture of scrub brushes, both household and industrial or machine brushes. It is

also used to some extent in whisk brooms and various novelty brushes, such as crumb brushes for dining tables. It is used mostly for hard-back brushes though some twisted wire brushes are made from palmetto fiber. The fiber is stiff and holds up well under water. It is a high quality fiber for scrub brushes where long wear is needed. Household brushes of Florida palmetto fiber are usually higher priced than similar brushes from the competitive, imported fibers. The most extensive use of palmetto fiber is for machine brushes, for washing citrus fruits, milk and butter vats, and the like; for deck brushes (palmetto fiber was specified exclusively for this purpose by the United States Navy until recently); and for street cleaning brushes.

Florida palmetto fiber is the only vegetable brush fiber produced in the United States. The chief competitive fibers are all imported, as istle (Tampico) from Mexico; palmyra from India; bassine from Africa; and piassava from Brazil. Palmyra is similar in color to palmetto and is its chief competitor. Most of the cheaper scrub brushes [fol. 1941] are made from palmyra.

The brush industry has not extensively developed in Florida. In addition to a few small brush plants, each of the fiber manufacturers makes whisk brooms from Florida palmetto fiber. Two of them also manufacture a line of novelty brushes. One, in addition to whisk brooms, makes a twisted wire toilet bowl brush from palmetto fibers.

The bulk of the Florida palmetto fiber output is shipped to brush manufacturers located mostly in Official Classification territory. Two of the Florida producers sell their output, except that used for the manufacture of whisk and novelty brushes, to brush manufacturers. The third plant is part of an integrated brush manufacturing concern and does not ordinarily sell fiber to others. Some of its fiber is manufactured in Florida into whisk and toilet bowl brushes but by far the bulk of it goes to the main brush manufacturing plant in Frederick, Maryland.

The United States Census of Manufactures carries no classification of scrub and industrial brushes to show the materials used so that no estimate can be given of the proportion of the brush output made of Florida palmetto fiber. Brush manufacturing is concentrated primarily in those states located in Official Classification territory. The

United States Census of Manufactures reports 245 brush manufacturing establishments, without any breakdown by [fol. 1942] type. Of this number, 200 or 89.9 per cent were located in Official Classification territory. These manufacturers have 90.6 per cent of the employees in the industry. For brushes of all types, of which scrub and industrial comprise only a part, the manufacturers in Official Classification territory have 79.9 per cent of the total value of the product and they add 79.4 per cent of the value added by manufacture. This means that brush manufacture is highly concentrated in its location in Official Classification territory. The United States Census figures on brush manufacture follow: In the state of Connecticut there are seven establishments employing a total of 668 employees. The totals for value of products and value added by manufacture for the state of Connecticut are not reported in order not to divulge information about particular plants. In the state of Illinois there are 21 establishments employing a total of 492 employees. The value of products was reported as $2,444,946 and the value added by manufacture, $1,122,150. In the state of Indiana there are 5 establishments employing a total of 93 employees. The value of products was reported as $634,419 and the value added by manufacture, $375,872. In the state of Maryland there are seven establishments employing a total of 982 employees. The value of products was reported as $5,025,870 and the value added by manufacture, $2,195,823. In the state of Massachusetts there are 25 establishments employing a total of 2,293 em- [fol. 1943] ployees. The value of products was reported as $9,942,865 and the value added by manufacture, $4,505,007. In the state of Michigan there are seven establishments employing a total of 94 employees. The value of products was reported as $587,297 and the value added by manufacture, $255,952.

In the state of New Hampshire there are four establishments employing a total of 151 employees. The totals for value of products and value added by manufacture for the state of New Hampshire are not reported in order not to divulge information about particular plants. In the state of New Jersey there are 19 establishments employing a total of 635 employees. The value of products was reported as $3,487,759 and the value added by manufacture, $1,390,481. In the state of New York there are 62 establishments

employing a total of 2,426 employees. The value of products was reported as $10,526,867 and the value added by manufacture, $4,608,041.

In the state of Ohio there are 16 establishments employing a total of 777 employees. The value of products was reported as $4,118,333 and the value added by manufacture, $2,158,631. In the state of Pennsylvania there are 18 establishments employing a total of 269 employees. The value of products was reported as $1,238,301 and the value added by manufacture, $551,247.

In the state of Rhode Island there are six establishments [fol. 1944] employing a total of 49 employees. The value of products was reported as $134,892 and the value added by manufacture, $78,255. In the state of Vermont there are three establishments employing a total of 167 employees. The value of products was reported as $626,397 and the value added by manufacture, $201,315.

The totals for the states in Official Classification territory are as follows: Number of establishments, 200; total number of employees, 9,096; value of products, $38,758,946; and value added by manufacture, $17,442,774. The totals for all states are as follows: Number of establishments, 245; number of employees, 10,029; value of products, $48,466,966; and value added by manufacture, $23,211,687. The percentages for the states in Official Classification territory are as follows: Number of establishments, 89.9; total number of employees, 90.6; value of products, 79.9, which is exclusive of the two states for which totals are not reported; and value added by manufacture, 79.4, which is exclusive of the states for which totals were not reported. This information has been compiled from the state series, Census of Manufacturers, 1939, 16th Census of United States, and the General Summary Statistics by Industry Groups, Census of Manufactures, 1939, 16th Census of United States.

Florida palmetto fiber is currently selling for 45 cents [fol. 1945] per pound for the better grades to around 30 cents per pound for the poorer grades. It is now averaging 35 to 37 cents per pound. Brush manufacturers buy particular grades or qualities of the fiber depending upon the particular kind of brushes which they manufacture. They buy in quantities needed for their manufacturing schedule and there is wide variation in the quantities

bought by different manufacturers. There is no characteristic basis of sale.

A very few shipments run as low as 200 pounds or less. A few are made by car lots. Most of the shipments run between 800 and 2,000 pounds. Fiber moves on class rates. Buyers (brush manufacturers) specify the length of fiber which they want and it is cut to length before packing. It is tied in bundles of about three to four inches in diameter and packed closely and tightly in wooden crates or cardboard cartons. No special handling or care is required in transit. A container 20 inches by 20 inches by 24 inches can pack 200 pounds, giving it a cubic density of 32.6 pounds per cubic foot.

Freight rates on Florida palmetto from the three Florida producing points, Jacksonville, Benson Junction and Otter Creek (Cedar Keys) compared with the rates on imported, competitive fibers are shown in Maurer's exhibit No. 92, pages 104, 105. A distinct disadvantage for the Florida palmetto fiber is shown. From Benson Junction, Florida, [fol. 1946] to St. Louis, Missouri, a brush manufacturing point, the Florida palmetto fiber has to pay 71 cents per 100 pounds, l. c. l. class rates, more than does imported fiber from New York to the same point. New York and Benson Junction are virtually equidistant from St. Louis. This is a differential of 58½ per cent against the Florida shipper. A 58½ per cent disadvantage in freight rates is a serious handicap.

Jacksonville and Otter Creek, Florida, are both substantially nearer St. Louis than is New York, the respective distances being 915 miles from Jacksonville, 933 miles from Otter Creek, and 1,027 miles from New York. Yet, Otter Creek pays 60 cents per 100 pounds, l. c. l. class rates, more than does New York, and Jacksonville pays 51 cents per 100 pounds more than does New York. From the three Florida shipping points this is an average difference of 60 and ⅔ cents per 100 pounds, or more than ½ cent per pound. On an output of about 1,500,000 pounds, at 60 cents per 100 pounds, this means that $9,000 annually has to be absorbed by the Florida shippers in less profits; by laborers in lower wages; or by consumers in higher prices.

The Florida palmetto fiber industry has to face this freight differential. Florida palmetto is the only vegetable brush fiber produced in the United States and it is produced only in Florida. Production in Florida is carried out under

national standards setting minimum wages and maximum [fol. 1947] hours. Yet, the industry pays a much higher freight rate than is paid on competitive, imported fibers. The imported, competitive fibers, in fact, are given a rate lower than the Eastern scale set forth in Docket No. 15,879. The differences in the rates, and the particularly low rates on imported fibers actually encourages the importation of fibers produced under low wage conditions. Inducement is given to import fibers rather than to use the only, domestically produced vegetable brush fiber, Florida palmetto. The domestic fiber, Florida palmetto, suffers the disability of much higher freight rates and its production and usuage is thereby curtailed.

Differences in the rates on fiber brushes also create a significant disadvantage against the Florida manufacturers. These differences are shown in Maurer's Exhibit No. 92, pages 106, 107. From Benson Junction to St. Louis, the difference is 76 cents per 100 pounds, l.c.l. class rates, or 48½ per cent higher than the rate from New York to St. Louis. There is no technical reason why hard-backed and household and industrial brushes of palmetto fiber could not be manufactured in Florida. The manufacture of whisk and novelty brooms in Florida has to meet the disadvantage in the rates. In doing so, the fiber producers can use the fiber of miscellaneous or off-grades which do not find a ready sale to brush manufacturers. But in brushes, the same differential has proved to be a factor [fol. 1948] which has deterred the development of the industry.

Based upon my study of these fiber producing plants in Florida, it is my opinion that they have been unduly handicapped by reason of the fact that the class rates to northern manufacturing markets are so much higher than the rates for like hauls in the East, and so much higher than the rates on imported competing fiber from New York to destinations in Central territory for like distances. It is my opinion that the present class rate structure constitutes a distinct handicap towards the further development of Florida palmetto fiber. I believe that the industry could be greatly expanded and the uses of palmetto fiber multiplied if the rates on fiber were based upon a level approximating the level of the rates on like traffic, mile for mile, within the North.

It is my opinion based upon my study of this industry that the existing freight rate structure is partly, at least, accountable for the fact that the manufacture of brushes from fiber has been in Official Classification territory and that the manufacture of brushes in Florida near the sources of raw materials is of such relatively insignificant proportions. It is my opinion that if an equitable and uniform basis of rates, mile for mile, were established, the manufacture in Florida of brushes from Florida palmetto fiber could be expanded far beyond the present output. It is [fol. 1949] further my opinion that a reduction in these class rates on brushes from Florida points would also stimulate an expansion of the manufacture in Florida of brushes of various kinds for distribution throughout the Southern states, where the interior Florida manufacturing points now have the disability, as compared with the remainder of the South, due to the addition of the Florida arbitraries.

The manufacture of rattan furniture illustrates an industry in which a high degree of skilled labor is a requisite. Moreover, it has been a type of furniture which has grown in popularity in recent years and the market for it is expanding. The frames for rattan furniture are made by bending rattan to the desired shapes and joining the pieces by screws or other joining hardware. The bending, as done by the manufacturer whose plant was surveyed, is done by hand and requires a high degree of technical skill. The measurements in bending have to be gauged by eye. Many pieces have curved and rounded sections. Some pieces have double curves. It is a highly skilled, craft activity.

Rattan comes from the Dutch East Indies, the Malay Peninsula, and the Philippines. The bulk of the supply is produced in the Dutch East Indies and it was formerly shipped in bundles, mostly from Singapore. Each bundle weighs from 65 to 120 pounds depending upon its thickness which varies from 7 mm. to 35 mm. The upholstery used [fol. 1950] for rattan furniture is usually domestic fabrics, of which sail cloth has been very popular. The filling or stuffing is mostly kapok, another imported material. Except for dowels, screws and nails and springs for cushions, the chief raw materials are imported and all manufacturers must use the same source for their materials.

Rattan is a specialty line and there are so few manufacturers in the United States that the Census does not give

an industry classification for it. The total value of output is therefore unknown. There are two rattan furniture manufacturers in Florida. The plant and processes analyzed was that of the ABC Wicker Company, Tampa, Florida. This plant employs five persons, has a gross volume of over $20,000 per year.

Rattan furniture is very light. A two-seat sofa, two large chairs, and one small chair will weigh less than 100 pounds. For shipping it is wrapped in excelsior padding and Kraft paper or packed in cartons. The bulk of the shipments of the Tampa manufacturer are l.c.l. at class rates. They move both by truck and by rail. Some shipments, especially single pieces, move by express since this gives a lower rate than either by rail or truck lines. Virtually all of the rattan furniture manufactured in Florida is sold within the state.

Maurer's exhibit No. 92, pages 109, 110, show the rates [fol. 1951] applicable on this furniture. From Tampa to St. Louis, the rate is 163 cents per 100 pounds and the distance is 1,049 miles. From Gardner, Massachusetts to St. Louis, the rate is 135 cents and the distance is 1,119 miles. This is a difference of 28 cents per 100 pounds, or a difference of 20.7 per cent. The present Southern scale gives difference in excess of the present Eastern scale for selected destinations in Official Classification territory over comparable hauls varying from 20 to 24 per cent. It is my opinion, based on my investigation of the manufacture of rattan furniture, that the higher freight rates materially limit the area of distribution of the Florida manufacturer. Sources of raw material are the same for all manufacturers and the product is primarily one using skilled labor. Manufacture at any point is thus faced with the same source for raw materials. Location of the industry therefore depends upon economic factors of labor supply and costs and freight rates. Additional freight costs deter the development of the Florida industry. It is my further opinion that freight rates on an equal basis, mile for mile, would permit the manufacture of rattan furniture to expand in Florida and enlarge the market area to which it could be shipped.

Florida is an area with large forest resources. There are large stands of pine, gum, cypress and oak. There are also stands of other woods, as maple, magnolia, cherry, and [fol. 1952] others. Raw materials are therefore available for lines of wood furniture. There are many small or specialty

furniture plants in Florida. There are three producers of commercial wood furnitures. My investigation covered one of the larger of these three. Florida Industries, Incorporated, Palatka, Florida. Florida Industries manufactures a line of solid wood bedroom and dining room furniture, using pine, gum, maple and magnolia woods.

Originally, Florida Industries manufactured a line of cypress lawn and garden furniture. This furniture sold extensively in Florida and along the entire Atlantic Seaboard to points which could be reached by water or on joint water-rail rates. The all-rail rates were so high that when added to the cost of the furniture, this company's products were excluded from the interior portions of the country. With the curtailment in the market for this furniture during the early years of the depression of the 1930's, Florida Industries turned to its present line of solid wood bedroom and dining room furniture. The manufacturing process is complete. The Palatka plant buys logs, operates its own mill and kilns. Florida woods, produced locally, are used exclusively.

Because of high freight rates and packing requirements, the company undertook to deliver its furniture by its own trucks to Florida dealers. It has gradually expanded this area to a radius of some 500 mi s and now delivers by its [fol. 1953] own fleet of four trucks to points as far distant as Birmingham, Alabama. No shipments are made by rail. There are produced, on the average, 300 suites of furniture weekly, or approximately 15,000 suites per year.

My investigation of Florida Industries disclosed that the company has always been limited in its area of distribution by the high freight rates which it has to pay. The level of rates is substantially higher than those prevailing in Official Classification territory. Maurer's exhibit No. 92, pages 109, 110, shows that to Chicago, Illinois, the Palatka Manufacturer would pay 29 cents per 100 pounds, or 21½ per cent more, than would be paid by its competitor from Gardner, Massachusetts, for a comparable haul in Official Classification territory. From Palatka to selected points in Official Classification territory, rates are 20 to 22 per cent higher than are the rates on comparable hauls under the Eastern scale.

It is my opinion that furniture manufacture, using Florida woods which are available and good, could be expanded provided markets could be reached without freight rates

in excess of those prevailing for manufacturers in Official Classification territory. It is my further opinion that a wider market would be made available to Florida furniture manufacturers if rates were comparable, mile for mile. Freight rates and transportation costs now limit the market [fol. 1954] area.

Crystallized citrus candies are a high grade, specialty product manufactured in Florida from Florida products. Similar products are glace fruit candies manufactured in California. My investigation of this product was in the plant of one of the larger manufacturers, the C. S. Taylor and Company, Davenport, Florida. This plant is located in the heart of the ridge citrus section in Polk County, Florida.

Much of the output is sold locally in a retail sales room and to establishments throughout Florida catering to tourist trade. It has appeal to tourists since it is a distinctly Florida product. Substantial amounts are shipped to the larger metropolitan centers as New York, Philadelphia, Boston, Pittsburgh, Detroit, Cleveland, and Chicago. The larger cities of the South also are a good market, such as Atlanta, Richmond, Birmingham, New Orleans, and Raleigh. It is particularly popular outside of Florida for the "Holiday Trade". It competes with other high grade candies and crystallized fruits manufactured in the North.

The manufacture of crystallized citrus candies is largely a hand process. The fruit must be peeled and prepared by hand for cooking. It is cooked in large steam cauldrons made of copper. Each batch is cooked for 24 hours. Cooked fruit can be kept in cold storage in its own juice until such time as the finishing process—sugaring and packing—are [fol. 1955] wanted. Before sugaring, the moisture content is reduced in special dehydrating rooms. Packing is done by hand. To get the eye appeal of a colorful package, much skill and care is needed in packing. It requires about one season to train a good packer. The business is seasonal, opening in October and reaching a peak of holiday shipments in November. It then carries a sustained volume on a high level through March when it tapers off to a very small amount. Crystallized citrus candies retail from $1.00 to $1.50 per pound. They average at wholesale about 60 cents per pound.

The C. S. Taylor Company produces normally about 60,000 pounds of crystallized citrus candies. It sells about ⅓

of this amount in its retail sales room and the balance is shipped to other Florida points and to the larger cities in the South and North for the "Holiday Trade". During the peak of the production season, this company employs 40 people. Shipments are made entirely in l.c.l. lots at class rates. Packing is done in Kraft paper cartons. A 100 pound lot of candy will pack about 140 pounds for shipping weight.

Crystallized citrus candies are a distinctly Florida product. Here again is a specialty, skilled craft industry using local raw materials. The market is at present circumscribed by the specialty appeal of this product. It is my opinion, however, that this need not be so. As shown by Maurer's exhibit No. 92, page 108, the present rates from Davenport [fol. 1956] to representative destinations in the South are from 7 to 11 per cent above the K-2 scale class rates. This difference shows the effect of the Florida arbitraries. It is my opinion that a reduction in the freight rate would materially aid in permitting a wider distribution of crystallized citrus candies throughout the South. It is also my opinion that a reduction would stimulate sales into the North. It is my opinion that freight rates are a contributing cause of the high price of the product and that lower rates would result in a more uniform market as well as a widened distribution area.

There are cigar plants located at Tampa or Ybor City, Florida, near Tampa, and at Jacksonville. There was no specific inspection made of these plants for the purposes of this case. I am, however, generally familiar with cigar manufacture in Florida. One of the Jacksonville plants ships in carloads as well as less than carloads, one of its nationally advertised brands (King Edward) all over the country. Cigars are also manufactured in Eastern port cities and compete in Central territory, for example, with cigars made at Jacksonville and Tampa. Cigars are shipped on class rates.

Maurer's exhibit No. 92, pages 111, 112, show the rates on cigars, any quantity, from Jacksonville, Tampa and New York, to representative points in Central territory. The [fol. 1957] rate from Jacksonville to Indianapolis exceeds the rate from New York to Chicago, for a like distance, by sixty-five cents, and is 42 per cent higher than the actual rate from New York to Chicago. The rate from Tampa to Indianapolis exceeds the rate from New York to St.

Louis, for a like distance, by eighty cents, and is 49 per cent higher than the New York rate. In my opinion these higher rates from Florida points than from Eastern points to the central West create a distinct economic disadvantage to the manufacturers of cigars who are located at Jacksonville and Tampa.

Chairman Aitchison: Is it your desire to have this witness stand aside now, and proceed with the Southwestern Case, or do you want to cross-examine at the present time?

Mr. Hillyer: May I make one request, Mr. Chairman?

Chairman Aitchison: Yes.

Mr. Hillyer: The industry pointed out here as typical of Florida industry making products moving at class rates is the fiber and fiber brush industry. We have some samples here we would like to show to the Commission and the parties, so that they may see what this fiber looks like. With your permission we will distribute samples of those little brushes showing the nature of the fiber and the nature of the brush. May we do that now?

Chairman Aitchison: As I understand it, these are articles which have been described in his testimony.

[fol. 1958] Mr. Hillyer: These are samples and show the type of articles actually described.

Chairman Aitchison: We will be glad to see them. I assume they have been properly described.

Mr. Hillyer: Yes. I think we can do this while the proceeding is going ahead, if it is all right with you.

Chairman Aitchison: Very well. Do you wish to cross-examine now, or have Dr Eutsler come back in the morning?

Mr. Gwathmey: Mr. Chairman, so far as I am concerned, I will have no cross-examination of this witness.

Chairman Aitchison: Anyone else?

Mr. McCollester: I will have a few questions, but I do not care when I ask them. I will be governed by your convenience.

Chairman Aitchison: If you are ready, go ahead now. Otherwise he will have to come back.

Mr. McCollester: Very well.

Cross-examinatoion.

By Mr. McCollester:

Q. With respect to these fiber brushes, Dr. Eutsler, what what are they used for?

A. Fiber brushes?

Q. Yes.

A. Most of the brushes made from palmetto fiber are known as scrub or industrial brushes. Scrub brushes are used for cleaning floors and things of that sort. For indus-
[fol. 1959] trial brushes they are used for various cleaning purposes such as washing citrus fruit, cleaning milk and butter vats, brewer's brushes, and even some street cleaning brushes and things of that sort.

Q. Where are competing brushes manufactured?

A. Competing brushes are manufactured largely in Official Classification territory.

Q. Are there competing brushes manufactured in Chicago?

A. There are competing brushes manufactured in Illinois.

Q. At what point in Illinois?

A. I cannot answer the question specifically other than to say that Illinois has a substantial number of brush manufacturers. One of the manufacturers, in any event, ships to Chicago so I assume there is a manufacturer in Illinois.

Q. What is his freight rate to Chicago?

A. The freight rate to Chicago—I will have to check my memory on that, sir. His freight rate to Chicago is $1.98 per hundred pounds.

Q. From Illinois to Chicago, $1.98 per hundred pounds?

A. You asked—I understood you to ask me the rate of the Florida shipper to Chicago.

Q. No, no. I asked you the rate of the Illinois manufacturer.

A. Excuse me.

Q. To Chicago.

A. I beg your pardon.

[fol. 1960] Q. I am sorry if you misunderstand me.

A. You want the rate on fiber?

Q. No. The rate on brushes of the Illinois manufacturer into Chicago.

A. From where, sir?

Q. From the Illinois manufacturer's plant.

A. I tried to pick a manufacturer in Chicago. I am sorry.

Q. Well, a manufacturer in Chicago has no freight rate in selling in Chicago, does he?

A. That is true.

Q. If the freight rates in Official territory were raised to the Florida level how would that help you or your Florida manufacturer in selling in Chicago in competition with the Chicago brush manufacturer?

A. It might not help him in meeting competition in Chicago directly, but it would certainly widen the range of distribution where he has to meet competition at other points from a Chicago manufacturer.

Q. There are brushes manufactured in New York, are there not?

A. As far as I know there are.

Q. How would an increase of the Official classification level of the rates on brushes to the Florida level help your man in selling his brushes in New York?

A. It would give him an advantage in going to the New York market—just a minute. May I ask for the question [fol. 1961] to be repeated?

Mr. McCollester: The reporter will read it.

(Question read.)

A. It would give him no particular advantage in going to the New York market, but it would give him an advantage, or give him a better position in competing with the New York manufacturer at other common markets.

By Mr. McCollester:

Q. Do you know whether the New York manufacturer sells in Chicago?

A. I do not.

Q. Do you know that a Chicago manufacturer sells in New York?

A. I do not.

Q. Now, on page 16, of your prepared statement in dealing with furniture you state, "Location of the industry therefore depends upon economic factors of labor supply and costs and freight rates." You are talking, as I understand it, about Florida as compared with Gardner, Massachusetts, is that correct?

A. Gardner, Massachusetts was picked as a representative point for the manufacture of furniture in Official Classification territory.

Q. Do you know how labor costs compare in Florida with those in Gardner, Massachusetts?

A. I do not, except that both of them have a minimum wage which they have to meet.

[fol. 1962] Q. But you do not know how much above the minimum wage the levels may be at each point?

A. Comparatively, I do not.

Q. Do you know where the Gardner manufacturer sells his products?

A. He is one of the largest manufacturers in the United States, so I assume he would sell pretty largely over the United States.

Q. That is just an assumption, however?

A. That is just an assumption, yes.

Q. Do you know whether he ships by rail or by truck?

A. I cannot answer that. I have not examined the Gardner, Massachusetts plant.

Q. Now, with respect to this candy that you are talking about, crystallized citrus candy——

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

By Mr. McCollester:

Q. With respect to this candy that you have talked about, of which a sample carefully covered up is being shown around here, that is what might be called high class candy, is it not?

A. It is a very high grade specialty candy.

Q. It is made out of citrus fruit grown in Florida, I take it?

[fol. 1963] A. Largely, yes, sir.

Q. How would an increase in the freight rates on candy within Official territory to the Florida level aid your candy manufacturer in selling in New York?

A. May I ask if that means that they would be put on a uniformity of rates?

Q. Yes. I said, raise the Official level to the Florida level.

A. It would help the Florida manufacturer in meeting a common market in which he now is at a disadvantage in freight rates.

Q. Is this candy shipped by freight or express?

A. Much of it is shipped by freight.

Q. Carload or less than carload?

A. Less than carload, entirely.

Q. Who are competitors in Official territory?

A. Manufacturers of high grade candy compete with it.

Q. Where are they located?

A. I have not examined the manufacture of candy in Official Classification territory, so I cannot answer the question.

By Chairman Aitchison:

Q. Is this candy shipped by railroad freight or by forwarders?

A. It is shipped by the manufacturer. That is, he ships it by freight.

Q. He does not use the freight forwarder?

A. No, sir. He ships it by freight. He delivers it to the [fol. 1964] local agent and it is moved out less than carload.

Mr. McCollester: I think that is all I have. I renew my objection to the testimony and move to strike it, if your Honor please, on the ground that the witness has shown he has not investigated and has no knowledge of the competition which he is talking about of manufacturers in Official territory.

Chairman Aitchison: Your objection is noted. Is there any further cross-examination?

Mr. J. R. Bell: I have one or two questions.

Chairman Aitchison: Mr. Bell.

By Mr. J. R. Bell:

Q. The various commodities discussed in your testimony and the additional ones mentioned are competitive with similar products produced in Official territory?

A. There are similar products produced in Official territory, yes, sir.

Mr. J. R. Bell: Just one other question.

By Mr. J. R. Bell:

Q. I think you are the author or co-author of certain economic studies, one dealing with the coming of industry to the South?

A. I have an article in the volume of Annals of the American Academy of Political and Social Science entitled The Coming of Industry to the South.

Q. Did you consider, Dr. Eutsler, the development of manufacturing industries in the South that would be com-
[fol. 1965] petitive with existing industries, manufacturing industries in Official territory?

A. I am sorry, but I did not understand the question.

Mr. J. R. Bell: Read the question to the witness, please, Mr. Reporter.

(Question read.)

A. My article in that volume dealt entirely with the transportation conditions in the South. I did not deal with manufacturing in general. I tried to show the relationship between the development of transportation facilities and industry in that article.

By Mr. J. R. Bell:

Q. Have you written any article dealing with this subject I mentioned?

A. Not on the development of manufacturing in the South in general, no sir.

Q. You have considered such, have you not?

A. I have been interested in the development of the South, yes, sir.

Q. This investigation here about which you have testified deals primarily and principally with industrial development and manufacturing developments in the South that would be competitive with similar manufacturing activities in Official territory?

A. Those manufacturers are in competition with manufacturers in Official territory, yes, sir.

[fol. 1966] Q. In large part is not that situation the contemplated situation in the South generally speaking?

A. The South wishing to develop competitive industries?

Q. Yes.

A. The South does not wish to take industry away from the North. The South wishes an opportunity to develop industry without facing artificial barriers.

Q. By "taking industry from the North", I suppose you mean transplanting individual concerns, but what is the difference fundamentally, between taking the individual concern and taking the business through competition?

A. The economic development of the country is affected whether it is concentrated in one place or in the other or whether it is decentralized. It should have the opportunity to develop without artificial barriers. If it becomes concentrated under such circumstances there is nothing that can be done about it except artificial stimulation of decentralization by subsidy or some other such method.

Q. You favor decentralization, do you not?

A. I favor the removal of all artificial restraints to trade.

Q. Do you, or do you not favor decentralization?

A. I do.

Mr. J. R. Bell: That is all.

Chairman Aitchison: Are there any other questions of Dr. Eutsler? (No response.) Apparently not. You are excused.

[fol. 1967] (Witness excused.)

Chairman Aitchison: We will take a short recess.

(A short recess was taken.)

Chairman Aitchison: We will resume the hearing.

Mr. Hillyer: That concludes Florida's presentation at this time, Mr. Chairman.

Chairman Aitchison: Mr. Bee.

Mr. Bee: If the Commission please, when this case was instituted by the Interstate Commerce Commission, the governors of the states of Arkansas, Louisiana and Texas had a meeting. At that meeting each state designated a representative to form a steering committee for the purpose of presenting evidence in this case and handling it for account of the official families of those states. Since that time the Railroad Commission of Texas has joined the state family in presenting this case.

The steering committee is com osed of Mr. J. C. Murray of Arkansas, Mr. Frye of the Louisiana Commission, Mr. Tanner for the Texas Commission and myself for the Okla-

homa interests. It will be our purpose to put witnesses on for the steering committee thus representing all of the states. The first five witnesses I will introduce and Mr. Cammack, Assistant Attorney General of Texas will in-
[fol. 1968] troduce the following witnesses who are Texas people, but they are presenting their case as part of the Southwestern case. Our presentation is for the states officially, and as sovereign states. Call Mr. J. C. Murray.

Chairman Aitchison: Raise your right hand and be sworn.

J. C. MURRAY was sworn and testified as follows:

Direct examination.

By Mr. Bee:

Q. Please state your name and address, Mr. Murray.

A. My name is J. C. Murray, address 231 Louisiana Street, Little Rock, Arkansas.

Q. What is your regular position, Mr. Murray?

A. Traffic manager and commerce counsel for the Little Rock Chamber of Commerce.

Q. In these proceedings, what position are you occupying in addition to that?

A. You mentioned that I was Chairman of the Southwestern Steering Committee. In addition I am the authorized representative of the Governor of Arkansas and Consultant to the Arkansas Corporation Commission.

Q. Will you relate briefly your railroad experience, please?

A. My experience in the transportation field of about 35 years includes both practical railroad experience and representation of communities and shipping interests. My railroad experience includes local office, covering rating and
[fol. 1969] billing of freight; general office, covering compilation, publication and quotation of rates, with attendant discussions at official rate conferences and supervision of traffic forces. In addition, I operated a railroad 365 miles long as chief operating officer for a period of five years.

Mr. Bee: If the Chairman please, we ask to have Mr. Murray's first exhibit marked for identification as No. 96.

Chairman Aitchison: It may be so marked.

(Exhibit No. 96, Witness Murray, marked for identification.)

By Mr. Bee:

Q. I hand you an exhibit which has been marked for identification as No. 96, Mr. Murray.

A. Yes.

Q. Will you please explain what that exhibit is?

A. As indicated on the title page it is statements of class rates to, from and within Official, Southern, Southwestern and Western Trunk Line territories; and also contains information regarding classification exceptions in addition to comparative statements of commodity rates.

Mr. Bee: Mr. Chairman, we ask to have this six page exhibit marked for identification as exhibit No. 97.

Chairman Aitchison: It may be so marked.

(Exhibit No. 97, Witness Murray, marked for identification.)

[fol. 1970] By Mr. Bee:

Q. I hand you a six page exhibit which has been marked for identification as exhibit No. 97, Mr. Murray.

A. Yes.

Q. I will ask you to state what that is.

A. That is a chart comparing the through interterritorial livestock rates between Eastern and Western territories and was compiled by Charles B. Bowling of the United States Department of Agriculture, Surplus Marketing Administration, Transportation Division.

Mr. Bee: We ask to have this one page exhibit marked for identification as exhibit No. 98, if the Chairman please.

Chairman Aitchison: It may be so marked.

(Exhibit No. 98, Witness Murray, marked for identification.)

By Mr. Bee:

Q. I hand you what has been marked for identification as exhibit No. 98, Mr. Murray.

A. Yes

Q. I will ask you to state what that is.

A. That is an exhibit which shows the rates applicable on fresh meat, packing house products and hides between important shipping and receiving points west of the Mis-

sissippi River contrasted with rates applicable on similar commodities moving locally in the Official territory.

Q. Now, take exhibit No. 96 and explain briefly what that exhibit contains, making such explanatory remarks as you [fol. 1971] think are absolutely necessary.

A. The first page inside of the cover is an index to the text. Page 1 is a map showing the present rate territories and needs no explanation, but does need a slight correction. Since this map was made the Great Falls case extended zone 4 into about two-thirds of Montana and that is not shown on the map. Page 2 is self-explanatory and is introduced merely for immediate reference in connection with the pages of the exhibit to follow. It shows the percentage relationship of other classes to first class in effect in the various territories.

Sheets 3 and 4 show a comparison of the first class rates in all of the territories. The rates are shown under column A prior to the Ex Parte 123 increases and in column B they include those increases. In no case are the Ex Parte 148 increases included. As to the Southwest, there are shown two scales, one headed "July 28, 1929" and the other headed "Effective April 9, 1937". The reason for this is that we have two mileage scales in effect within the Southwest. The rates effective July 28, 1828 increased as per column B are used to ascertain rates applicable on commodities taking column bases and do not apply on class traffic. The rates in the second section headed "Zone 3, effective April 9, 1937", are the actual first class rates to be used on class traffic.

These two pages are compiled in mileage blocks so that [fol. 1972] the averages of the total distance to the end of each block may be easily ascertainable. I will limit my comment, but want to point out that as compared with Official territory and using column A of the Southwestern rates, effective April 9, 1937, and column A of Official territory, both of these being prior to the Ex Parte 123 increases, at five miles the Southwest is six cents higher than Official, but by reason of the Ex Parte 123 increases this spread has become seven cents as shown in column B.

Chairman Aitchison: Just how important in your judgment as a traffic man is this five mile rate?

Mr. Bee: He is only going to show two breaks, Mr. Chairman, just to show the start and finish.

Chairman Aitchison: I want to know how important he considers it.

The Witness: I want to show by showing five miles what occurred at the start of the mileage scale and then show how the spread has been increased materially when you get greater distances.

By Chairman Aitchison:

Q. The five mile rate does not move very much of the class rate traffic, does it?

A. No, it does not, but the considerations in the fixing of the five mile rate, which are largely terminal, occur in both distances, the long distances or short distances.

Mr. Bee: It does not mean, Mr. Chairman, that the five [fol. 1973] miles is representative of the movement of any traffic. We are just citing here the beginning and ending of the scale. That was the only purpose.

Chairman Aitchison: Very well. Please proceed.

The Witness: At 1,000 miles the difference in column A using 273 cents in the Southwest and 165 in Official, is 108 which became 118 with the Ex Parte 123 increases. In other words, what I am giving consideration to here is that the spread at 1,000 miles is $1.18 and at five miles it is six cents, but the same terminal charges occur on a less than carload shipment moving under the first class rate, whether it moved 1,000 miles or five miles, and it just seems to me that the spread is too great at 1,000 miles.

Page 4 shows that originally the Southwestern scale as indicated in the first column was progressed 282 points. It started with 36 cents at five miles and at 1,500 miles the rate was 318, with a progression of 282. At that time the total progression in Official territory scale was 185. A comparison effective April 9, 1937 occasioned by the 21st Supplemental Report order, and not including Ex Parte 123 increases, shows the progression in the Southwest was 322 and in Official territory, 185.

Chairman Aitchison: Again, how important is this 1,500 mile figure? You would have difficulty in finding a 1,500 mile haul in either Official or Southwestern territory, would [fol. 1974] you not?

The Witness: A 1,500 mile haul in the Southwest?

Chairman Aitchison: You might get it, of course, from El Paso over to Little Rock or Memphis, but you would not be able to find that in Official territory, would you?

The Witness: Not within Official territory, but you would from Official territory to the Southwest.

Chairman Aitchison: I mean, what would be the area within which these two scales you are talking about would operate? You could not find a 1,500 mile haul within Official territory, could you?

The Witness: You could find a 1,500 mile rate from El Paso, as you said, which is 900 miles across the state of Texas, to a point in Northwest Arkansas near the Missouri line.

Chairman Aitchison: Yes, but with respect to Official territory have you any such haul?

The Witness: Within Official?

Chairman Aitchison: Yes.

The Witness: Not that I know of.

Chairman Aitchison: Proceed.

The Witness: Page 4 also shows a summary which includes the percentage average each mileage scale bears to the Official scale from which it will be noted that the Southwestern Zone 3 scale is 160.4 per cent of the Official scale and the total progression in that scale is 173.5 per cent of the [fol. 1975] Official scale. Page 5 is self-explanatory and is a graph compiled to show as nearly as possible the comparison of Official versus Southwestern first class scales.

By Mr. Bee:

Q. Now, Mr. Murray, at page 5 there are a considerable number of hauls in the Southwest at 800 miles, are there not?

A. Yes, sir.

Q. And the relationship between the Official scale and the Southwestern scale is approximately the same at 800 miles as it is at 1,500 miles, is it not?

Mr. McCollester: We cannot hear counsel back here.

By Mr. Bee:

Q. The comparison or range in the scales between the Southwestern scale and the Official scale as shown on

page 5 is approximately the same for 800 miles as it is for 1,500 miles, is it not?

A It levels off about that distance.

Com. Alldredge: Is that the first class scale?

Mr. Bee: Yes.

By Mr. Bee:

Q. Proceed, Mr. Murray.

A. Page 6 of this exhibit——

Q. Before you take up page 6, did you call attention to the correction on page 1?

A. Page 1—I think I did, yes.

Mr. Norman: He did, yes, about Montana.

Mr. Bee: Yes.

[fol. 1976] By Mr. Bee:

Q. Before you explain this, will you call attention to a correction on page 6?

A. Well, it is the same situation. The upper drawing was made before the carriers voluntarily withdrew zone 4 rates from Southwest Texas and Oklahoma.

Q. That caused your No. 4 Southwestern figure shown on page 6 to be what instead of 175?

A. 160.4.

Q. Proceed, please.

A. This graph shows the relationship between the value of manufactured products in each of the territories and the first class rate scales. This impresses me, and I think should impress anyone with the fact that wherever we find the lowest rate adjustment, we find the highest degree of manufacturing, and where we find the highest rates, the lowest degree of manufacturing is evident.

It must be obvious that if the lower level of freight rates causes the concentration of manufacture in one territory, there should be a correction. I use the word "territory" because we now have territorial adjustments. I do not think we should have territories, but to the contrary, so far as transportation costs are concerned, there should be equal opportunity for each state in the United States to develop and process its own resources.

Page 7 shows departures from the mileage scales on pages [fol. 1977] 3 and 4 in that they are the specific prescribed

first class rates. In my opinion the rates included on this page are indicative of most severe discrimination against the Southwest. They show that industry in Official territory may distribute its products into the Southwest at lower than the Southwestern normal scale. It is true that the rates apply between, and the Southwest may enter Official territory on the same basis per mile that Official territory may enter the Southwest, but a manufacturer of a commodity in the Southwest shipping to Southwestern points pays the full Southwestern scale, whereas a manufacturer of a similar commodity at Official territory points delivers into the Southwest at less than the full Southwestern scale.

The opposite is true when a manufacturer in the Southwest endeavors to distribute in Official territory. He pays the first class or rates related thereto shown on this page, but he is not permitted to distribute to points in Official territory on the Official territory scale.

Page 8 is a graph. The data thereon was compiled by taking the average of the distances and rates shown on page 7 compared with the average of the distances and first class rates applicable thereto in Official territory between the points shown on this graph. Taking the average of the distances from the four Southwestern points to Buffalo, New York, for instance, it will be noted that the [fol. 1978] cost for the distance from the Southwestern points to Buffalo is about $2.90 while the cost for equal distance, all of which is within Official territory, is slightly over two dollars. The solid black portion shows the cost for the average distance from the Southwestern points to the Official points shown, while the lower sections which are shaded show the cost for the same average distance within Official territory.

Q. By the term "cost" you mean freight rate applicable, Mr. Murray?

A. Applicable in connection with the first class rate, yes.

Q. Yes.

A. Page 9 shows the arbitraries to be added to the class rates to or from Mississippi River crossings, Memphis and south, in making rates between Official and Southern territory on the one hand and points within 170 miles of the west side of the Mississippi River, Memphis and south. These class arbitraries were prescribed by the Commission in the 21st Supplemental Report. At page 656 of that report, the Commission found the arbitraries were necessary to remove

rate humps at the territorial border points. When it prescribed these class arbitraries it also provided that they should apply to the 26 columns, but the columns were eliminated in the 22nd supplemental report for reasons I have heretofore mentioned in connection with pages showing the mileage scales.

[fol. 1979] Chairman Aitchison: On that page, Mr. Murray, I do not understand the meaning of "110" after the words "Distance in miles," in the first line.

By Mr. Bee:

Q. Will you explain what the distance in miles, 110 miles, is, Mr. Murray?

A. That 110 is 110 per cent of first class. The arbitraries are published in that way, Mr. Chairman.

Mr. Bee: The classes break at the dotted line, 110, first class, second 79½, then, third, 75.

The Witness: In other words, 13 is 110 per cent of 12, and the arbitraries are actually published that way in the tariff.

Chairman Aitchison: My point is, to what figures below does that distance in miles refer?

Mr. Bee: Oh. I see your point, Mr. Chairman. The distance in miles refers only to the figures below that.

Chairman Aitchison: Yes.

Mr. Bee: The 110 should fall under the word "classes." 110 per cent of first class is what is intended, Mr. Chairman.

Chairman Aitchison: What would that be, certain articles specially classified?

Mr. Bee: Yes, and that is the way the scales were actually published in response to the Commission's order. You will notice column 77½ and column 75 are shown, and [fol. 1980] Mr. Murray has used it exactly as published. Does that explain it?

Chairman Aitchison: Yes. Proceed.

The Witness: While we were not successful in having the connecting lines publish the first class arbitraries for 170 miles west of the Mississippi River to the 26 commodity columns, the Southeastern lines through negotiations with the railroads serving the 470 mile territory, did agree to make the class arbitraries applicable in connection with

certain commodity columns, westbound only. This was accomplished by publishing a list of the Southern tariffs containing rates from Southeastern points to Memphis and other river crossings, in Southwestern lines tariff 254-A which carries the through rates, and providing that in making through rates on the commodities in those tariffs, the class arbitraries west of the river would be used. Then the Southwestern lines included in section 3 of Southwestern lines exceptions 173-O the exceptions to the classification which would be used in connection with the class arbitraries.

In other words, if one of the Southeastern tariffs listed in Southwestern lines tariff 254-A carries a rate on a given commodity of 20 cents from a given point to Memphis and the Southwestern lines exceptions carries that commodity in section 3 at column 50, the rate from the point in the Southeast to a point 100 miles west of Memphis would be made [fol. 1981] by adding 20 cents to the rate from the Southeastern point to Memphis, providing that results in lower than the through published class rate.

The Official territory lines control the rates to and from their territory. Experience has proved that the Southwestern lines may be willing to establish certain bases from the Southwest to Official territory or in the reverse direction and may approve such bases in their general traffic committee meetings, but this gives no assurance that the bases approved by their lines will be adopted by the Official territory lines and in many cases it is not.

In connection with the arbitraries shown on this page, we have been unsuccessful in securing the cooperation of the Official territory lines in even going as far as the Southeastern lines have gone by publishing them in one direction, although we desire that they be published; if our territorial adjustment remains in effect, we would like to have them published both ways.

Pages 11, 12 and 13 show tariffs where the carriers have voluntarily made lower rates on the first four classes within parts of the Southwest than prescribed by the Interstate Commerce Commission, indicating to me at least, that the prescribed rates are too high to move the traffic. I do not think those pages really need any explanation.

By Mr. Bee:

Q. Page 11 applies to traffic in Arkansas and from [fol. 1982] Arkansas to adjacent states?

A. That is correct.

Q. Page 13 applies within Oklahoma and from Oklahoma to Kansas, Missouri and Arkansas, I believe?

A. Yes.

Q. Is that correct?

A. That is correct.

Q. You might call attention to the extreme end of the scales where they trail into the 13535 scale.

A. The scale in Arkansas is commonly called the 70 per cent scale because it starts out at 70 per cent of the Interstate Commerce Commission prescribed basis. It grades into the prescribed basis at 200 miles. My recollection is—I believe I have it on this exhibit. That is true of Arkansas, but it is not true of Oklahoma entirely. The Oklahoma scale grades into the Southwestern scale at a much lower distance than the Arkansas scale.

Q. Just the reverse. Higher, is it not?

A. Oh, yes. It even goes higher, yes.

Q. Yes.

A. Pages 14 to 21 show ratings prescribed by the Interstate Commerce Commission on commodities shown. I have shown the prescribed rating in Southwestern territory and prescribed rating in Official territory and have given the I. C. C. Report citation. The Official territory prescribed [fol. 1983] ratings will largely be found on pages 21 and 22—or rather, beginning on page 20. Page 22 shows classification exceptions in effect generally in connection with the voluntary class rates in Oklahoma and Arkansas and between those points and points in other states as shown on pages 11 and 13. I have here compared them with the exceptions applicable generally throughout the Southwest in Southwestern lines exceptions 173-O. In Oklahoma and between Oklahoma and contiguous points in other states the percentages of first class applicable, generally, interstate in the Southwest have been observed, while in Arkansas and between Arkansas and contiguous points in Louisiana, Oklahoma and Memphis, Tennessee covered by Southwestern lines tariff 220-E and shown in the second column, the percentages of first class are usually lower than the general exceptions covering Southwestern territory.

With respect to pages 23 to 37, these pages contain comparisons of commodity rates within the Southwest, from the Southwest to Official territory, and within Official territory for equal or nearly equal distances as responsive to the Commission's notice to the public of January 9, 1940. At least, the way we have construed the notice, the Commission asked us to show class rates and rates on all other traffic which we have endeavored to do. On page 32——

Mr. Barron: Mr. Chairman, before we leave these last [fol. 1984] few pages, I want to object to the receipt of them for the reason that they are not involved in this proceeding.

Chairman Aitchison: They have not been offered yet.

Mr. Barron: Then I will reserve the objection, or the motion.

The Witness: On page 32 I would like to ask that a correction be made in the column with the capital A in parenthesis, or in connection with those rates. We have shown the fifth class rates and since the exhibit was made I have found that they really are 110 per cent of the rates in Official territory shown in the next column; in other words, 110 per cent of class 27½-J.

Mr. McCollester: That applies to all of the rates bearing the letter "A" preceding them?

The Witness: That is right.

By Mr. Bee:

Q. Proceed, Mr. Murray.

A. Page 38 shows graphically the discriminations existing in rates on fiberboard boxes using Little Rock, Arkansas as a Southwestern origin and New York as an Eastern origin. The left-hand section of the graph shows rates and distances and it shows that Little Rock is compelled to pay 49 cents to ship to Aurora, Illinois; 602 miles, whereas New York may ship 909 miles to that point for 47 cents. I have some more comparisons to read into the record, but I think that page is sufficiently self-explanatory, except that I do [fol. 1985] want to call attention to the fact that the state areas in the lower map are distorted to show the relative spendable income. That spendable income was obtained from the Department of Commerce Reports for the year 1939.

Page 39 is a similar showing on canned foodstuffs, carloads from Fayetteville, Arkansas which is the center of a

large producing area in Arkansas with Baltimore, Maryland. Page 40 is a similar showing on work clothes from Little Rock and Boston to various points. Page 41 is a similar showing with respect to furniture and furniture parts, carload, from Fort Smith and Gardner, Massachusetts. Page 42 is a similar statement on finished wooden handles, carload, using Hope, Arkansas, a large manufacturing point of wooden handles and New York as a comparison.

Page 43 shows the authority for the mileages shown on the preceding charts. With respect to page 44, these figures were ascertained by taking Bureau of Statistics Statement No. 40100, first ascertaining the amount of revenue received from each group of commodities and the number of tons handled and dividing one by the other to ascertain how much was received per ton, and then taking similar action as to the Southwestern area and ascertaining what per cent the result in the Southwestern area is of the Eastern district. Page 45——

Mr. Bee: Just a minute.

By Mr. Bee:

Q. On page 44 you did not try to weight the haul in any [fol. 1986] way, but simply took it upon the revenue per ton?

A. That is right.

Q. Proceed.

A. Page No. 45 is a graph to show the local consumption of forest products in Arkansas and the amount and value that is shipped outside of the state. Now, a great deal—I cannot say how much, but a great deal of the forest products shipped outside of the state of Arkansas and noted here as exported, are semi finished materials such as staves, headings, box material and things of that kind. In other words, we cannot finish a lot of our own wood products.

Mr. Bee: Before you proceed any further, Mr. Murray, I would like to offer in evidence exhibit No. 96 because I understand the carriers will have some objections to pages 23 to 37, I believe it is, and if those be sustained, then we will not introduce the next two exhibits. If the objections be overruled, then we desire to introduce the next two exhibits.

Mr. Barron: I object to the receipt of pages 23 to 38 of exhibit 96 for the reason that the rates on the commodities shown are not class rates. They are either commodity rates

or rates made by exceptions to the classification. They are not responsive to the Commission's notice of January, 1940.

Chairman Aitchison: Is it your understanding that the only rates which have been shown to us have been those [fol. 1987] which are class rates?

Mr. Barron: No. You have received a lot of rates that are not class rates, but not as far as the Southwestern territory is concerned.

Chairman Aitchison: Did not the respondents show many rates that were not class rates?

Mr. Barron: Yes. Certainly we did, but for an entirely different reason. Whether they are showing these rates for comparison or not, I do not know. They say they are putting them in because they are responsive to your notice of January, 1940.

Chairman Aitchison: I think we have to enforce the same rule both ways. I think we received a lot of testimony with respect to what these raw material rates were in the South, and so forth, by respondents. I do not know why we should not let this go in.

Mr. Barron: The only reason I object, if you will permit me to say so. Mr. Chairman, is this: There are a lot of commodities shown here that are not necessarily raw materials such as wrapping paper and things of that kind. Now, I know there are a lot of the carrier representatives that are a little bit up in the air about just whether or not the Commission is in the proceedings going to consider the question of rates that take a column rating without being specifically a class rating, and if we are not too presumptuous, I would [fol. 1988] like to have the Chairman tell me, at least—maybe everybody else knows it—whether or not you are considering in this proceeding the rates that take a percentage of the class rates, but which are not in and of themselves in the classification, and are not in the exceptions.

Chairman Aitchison: We do not care to amplify the statements which have been made by the Commission and have been put out and served on all of the parties.

Mr. Barron: Thank you.

Chairman Aitchison: That ought to suffice.

Mr. Barron: Thank you.

Chairman Aitchison: The objection is overruled.

By Mr. Bee:

Q. Now, Mr. Murray, present your exhibit No. 97, please.

Mr. McCollester: May I ask Mr. Bee—I think the question should probably be addressed to him—whether he has offered the rate statements and the pages to which objection was made as illustrative of rates which he considers in issue in this proceeding or simply because he thinks that the Commission has asked for them, but regards them as not in issue?

Chairman Aitchison: Will you state the purpose for which the offer is made, Mr. Bee?

Mr. Bee: In the notice of January 9, 1940, the Commission in the numbered paragraph on page 1 asked or suggested, "In order to afford a record for the determination [fol. 1989] of the issues in these proceedings", and so forth, "the present differences between the levels interterritorially and intraterritorially in and between Official, Southern, Southwestern and Western Trunk Line territories of A, class rates and B, rates on all other traffic". We assume that the Commission desired to weigh all traffic and we have presented, so far as it is possible, what we thought were relative rates for that purpose. We tender pages 23 to 37 in that spirit and we will tender exhibits 97 and 98 with that intent in mind. Does that answer your question?

Mr. McCollester: I am afraid not. I do not know whether you think that these are rates as to which you are seeking relief, if I may put it that way, or seeking a change in these proceedings, or whether they are not.

Mr. Bee: I am going to leave that to the Interstate Commerce Commission, to say what issues are involved in the case, at this time. I am presenting the testimony on all matters, and especially those which I think the notice calls attention to. I think in our briefs we may be able to argue what is or what is not involved in the proceeding.

Mr. McCollester: I think the Commission may have called for information for the purpose of itself using rates by way of comparison for testing rates that are in issue.

Chairman Aitchison: I ask counsel to examine the Commission's order of August 1, 1940 in Docket 28300 and advise [fol. 1990] me whether there is any uncertainty about it. Hand it to Mr. McCollester and Mr. Barron and let them see it.

Mr. McCollester: I can read this, Mr. Commissioner, but it does not answer the question I asked of Mr. Bee. As I understand it the rates put in issue are the first class rates and then it is ordered that the order be modified so that the scope of the investigation shall include all rates determined by ratings in the classification proper. I understand these are not in the classification proper. Why the Commission asked for them, I do not know.

Chairman Aitchison: Well, is it possible, for instance, that fiberboard boxes, knocked down, have no rating in the classification?

Mr. McCollester: There may be some other rates in the classification, or rating in the classification, but I do not understand that these rates that are shown in these pages of this exhibit are rates which are in accordance with the classification proper.

Chairman Aitchison: There certainly are ratings in the classification for fiberboard boxes, knocked down, or the ingenuity of our experts is slipping terribly.

Mr. McCollester: If that is the proper interpretation, then I take it that this proceeding involves every rate on every commodity in the classification.

Chairman Aitchison: It certainly involves our fixing a [fol. 1991] proper classification for every article which moves in commerce that we can think about. There may be exceptions to that which are forced by local conditions which we are not inquiring into now, but we want to make a proper classification of every article moving in commerce by these respondents.

Mr. McCollester: I think the difficulty is not one in which I am alone, because I have talked with other counsel and I think we are all in the same boat as to not knowing just what rates are involved.

Chairman Aitchison: We may not be able to take these particular less than carload rates from Little Rock to Chicago which are shown on page 23 and change them. We may not be able to change this exception rating, but that exception rating is the thing which is temporary and we hope that the classification will not be. We want an underlying classification which is fair, just and reasonable and complies with the Act.

Mr. McCollester: I understand, Mr. Chairman, of course, that the classification ratings of all commodities are in issue. I have not heard anyone in the course of the proceed-

ing, so far, however, offer any evidence complaining about the rating in the classification on any particular commodity, or indicating what change in rating should be made. Everybody has talked about rates and not ratings.

Mr. Bee: I think Mr. McCollester is in error there. The [fol. 1992] Commission asked that we not pick any one commodity in the case and give its classification ratings history and what changes we wanted on each of them specifically. We certainly are here asking first, for a uniform classification; and second, for uniform rates for application in connection with those ratings. In that connection, as we will try to show by some specific shippers, we will expect to have some rates that will be uniform throughout the country. Shall I proceed?

Chairman Aitchison: Yes. We see no objection to these pages.

Mr. Bee: Have you accepted exhibit No. 96?

Chairman Aitchison: Exhibit No. 96 is received in evidence.

(Exhibit No. 96, Witness Murray, received in evidence.)

By Mr. Bee:

Q. Mr. Murray, will you now take up and explain your exhibit No. 97?

A. Exhibit No. 97 is an exhibit of six pages and is the exhibit I identified as being compiled by the United States Department of Agriculture.

Q. The first page shows the actual rates prescribed by the Interstate Commerce Commission for intraterritorial application in the three regions, does it not?

A. That is right.

Q. Then the graphs merely show the interterritorial rates [fol. 1993] and how they are made up, and compares them with the intraterritorial rates?

A. Yes. I might explain just one line, and that will, I think, suffice for all of them. Refer to the third page, the first block, the line graph applying to fattened cattle. If you will take the first graph line, it shows that for 500 miles in Western territory the rate is 45 cents. Now, you take the last graph line which is the black one, and it shows that the Eastern territory rate for 500 miles is 42 cents. Using the second graph line the rate from the point of origin in the

West to a point 50 miles in Eastern territory would be 38 plus 15 or 53.

Q. Now, that exhibit was introduced in I. & S. Docket 4779 with all of the supporting data?

A. That is correct.

Q. Is that right?

A. Yes.

Mr. Bee: We simply borrowed it from that docket and introduced it here without the supporting data which we can provide if anyone desires it.

Com. Alldredge: Incidentally, Mr. Bee, the Southern rates have been changed, have they not, since this exhibit was made?

Mr. Bee: Yes. The Southern rates have been changed in Docket I. & S. 4779, but they were not available at the time [fol. 1994] we made this chart.

By Mr. Bee:

Q. Will you take up and explain your exhibit No. 98, please, Mr. Murray?

A. This exhibit No. 98 is a one page mimeographed statement showing rates applicable on fresh meat, packing house products and hides between important shipping points and receiving points west of the Mississippi River contrasted with rates applicable on similar commodities moving locally in the Eastern district. I think the exhibit is self-explanatory.

Mr. Bee: I offer in evidence exhibits Nos. 97 and 98, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibits 97 and 98?

Mr. Barron: To preserve the record I would like to object to the receipt of them because they are commodity rates and in no way related to class rates by exceptions or otherwise.

Mr. Bee: I am not sure there is a classification rating on common livestock in carloads west of the river. As to exhibit No. 98, counsel is sure there are in all of the classification territories in all of the classifications, ratings on fresh meats, packing house products and hides. There can be no question of the admissibility under the previous ruling of exhibit No. 98.

Chairman Aitchison: The objection to exhibit No. 97 is [fol. 1995] sustained, and the objection to exhibit No. 98 is overruled.

(Exhibit No. 98, Witness Murray, received in evidence.)

By Mr. Bee:

Q. Mr. Murray, in its notice of January 9, 1940, the Interstate Commerce Commission included certain matters which might be matters of interest to parties who desired to answer those questions.

A. Yes.

Q. Will you please turn to that and advise if you can answer question No. 2?

A. Well, our committee gave consideration to those questions and we did reach conclusions on some of them. As to No. 2 our conclusion was that there shall be one class rate level prescribed as maximum rates for application throughout the territory involved in these proceedings applied equally, mile for mile, between all points therein.

Q. Now, as to question No. 4: Shall the progression of the class rate scales be the same for less than carload or other unit volumes as for carload?

A. Having suggested only one scale, we could not suggest a different scale for each class of traffic. There necessarily would have to be just one progression.

Q. As to No. 6, the feasibility of prescribing minimum and maximum or precise class rates, what have you to say?

A. Our conclusion was and is that we do not favor the pre- [fol. 1996] scription of minimum or precise class rates.

Q. Now, as to No. 15, the desirability of making less than carload ratings vary with the weight or volume of the shipment, what have you to say?

A. The committee concluded that the ratings should not vary with the weight or volume of the shipment.

Com. Alldredge: May I ask a question right there?

Mr. Bee: Yes.

By Com. Alldredge:

Q. You have a great many of those rates in the West, do you not, and the Southwest?

A. Yes.

Q. Do you think they should come out?

A. That was the view of our committee and that is my view. They were established largely for the purpose of meeting motor truck competition, and in the handling of some of those weights I do not think the railroads really earned their cost—at least it did not appear that way to me—and it tends to discriminate. For instance, a 5,000 pound rate has a tendency to discriminate against a shipper who can only ship 2,000 pounds.

Mr. Bee: We are not answering the question, Mr. Commissioner, as to motor. We are answering it solely as to rail.

Com. Alldredge: Does that mean you might have a different view as to the motor carrier rates?

[fol. 1997] Mr. Bee: May I answer that?

Com. Alldredge: I will not insist upon it.

Mr. Bee: I am going to answer you in just a minute, if I can have the witness answer it.

By Mr. Bee:

Q. As to No. 12, Mr. Murray, shall the classification of freight for rail and water transportation be revised to accord more or less importance to a weight-space basis with less or more regard to value, what have you to say?

A. Our conclusion is that more importance should be given to weight and space with less importance to value.

Q. No. 14: To the extent that sizes of railroad car bodies are to be considered in the determination of minimum weights applicable in connection with carload ratings, what size of car shall be used as a standard?

A. We decided, based upon the greatest availability of equipment, that the 40-foot seven-inch car should be used.

Q. With respect to No. 16, the practicability or necessity of a uniform basis of classification for all territories, what have you to say with respect to that?

A. There should be a uniform classification to apply within the entire territory.

Q. Many of these questions, and especially No. 7 and beyond, use the term "motor" in connection with rail and rail and water. Were any answers made as to the motor part of the questions?

A. No, sir.

[fol. 1998] Q. Why?

A. We understood that the motor classification was involved and then in our further consideration we had information, in fact, an order from the Commission which left the motor carriers out of this particular hearing.

Q. And we did not study the motor portion of the question?

A. That is correct.

Q. Now, then, has it been decided by the committee at this time, or what action did they decide to take as recommending to the Commission the number of classes or the level of the rates to be prescribed?

A. The conclusion of the committee is that we have not sufficient information before us to offer a suggested scale at this time, but based upon the evidence, when the case is concluded, or the hearing is concluded, we may suggest a scale on brief.

Q. Have you anything further to add, Mr. Murray?

A. No.

Mr. Bee: You may cross-examine.

Chairman Aitchison: With respect to exhibit No. 97, it is my duty to develop whether or not you wish to withdraw this.

Mr. Bee: Yes, if the Commission thinks it is not admissible.

Chairman Aitchison: There it is.

[fol. 1999] Mr. Bee: Does that change the exhibit numbers?

Chairman Aitchison: The exhibit numbers are not changed. That is provided for by rule 92, I believe.

Mr. Barron: Is that all?

Mr. Bee: That is all.

Chairman Aitchison: You may cross-examine.

Mr. Barron: I would like to ask a few questions, if I may, please, sir.

Cross-examination.

By Mr. Barron:

Q. Mr. Murray, you stated, I believe, that you were in favor of a uniform classification throughout the Southwest, and I understand you mean the Official classification territory, is that right?

A. I did not say the Southwest. I said, throughout all of the territory involved in these proceedings.

Q. Do you mean by that, that you want the Commission to fix very definite class rates and that there shall be no departure from the class basis that the Commission fixes?

A. Not at the time they fix them. The Commission may find it necessary through formal proceedings of some kind to change some of the class rates later.

Q. Would you have the Commission definitely fix a class rating on a specific article and not permit the carriers, if conditions warrant it, to change that classification by an exception?

[fol. 2000] A. Yes, I would. We have so many exceptions now, we do not know what the rate is.

Q. Then you do not want any exceptions in the Southwest, is that right?

A. Not if we have a proper classification.

Q. Do you speak for all of the shippers in Oklahoma and Texas?

Mr. Bee: Now, if the Commission please, I think we introduced the witness and said who he was representing. Naturally he cannot represent nor speak for all shippers in Oklahoma and Texas. No man could do that.

Chairman Aitchison: He can testify as to what his opinion is. That is as far as he can go.

Mr. Barron: All right, sir.

The Witness: The answer is "No".

Chairman Aitchison: I do not mean as to whether he speaks for everybody. He is not claiming to speak for anybody except himself. After he has taken the oath he is here to tell the facts.

Mr. Barron: I understand that, but I also understood there was a committee appointed and that Mr. Murray was representing that committee who in turn was representing the territory in the Southwest.

Chairman Aitchison: You can ask him what the committee thinks about it, if he knows.

By Mr. Barron:

Q. Do you know whether or not in your committee meet-
[fol. 2001] ings it was discussed whether or not there should

be a fixed and definite classification throughout the territory involved in these proceedings?

A. I cannot conclude that we meant anything else when we said we want a uniform classification and a uniform class rate scale.

Q. Now, would you expect or do you ask the Commission, I will say, in these proceedings to fix a definite classification on canned goods throughout this territory without any consideration to the situation that exists in Arkansas?

A. Throughout this territory, without considering Arkansas?

Q. Without giving any special consideration to the situation in Arkansas.

A. I do not think any territory has a right to special consideration.

Q. Do you know whether or not there are any conditions in Arkansas as far as the cannery industry is concerned, that is not present in the cannery industry in Indiana and Illinois?

A. To this extent: We do not produce the same quality or the same assortment of canned goods that they do in Illinois and Indiana.

Q. You do produce some commodities in cans in Arkansas that they do in Illinois and Indiana, do you not?

A. Tomatoes, spinach, and probably one more vegetable.

Q. Was there a representative of the canning industry on [fol. 2002] your committee?

A. No, sir.

Q. Then you do not know just how they felt about it, is that correct?

A. No. I do not know how they felt about it.

Mr. Barron: All right.

By Mr. Barron:

Q. Looking at page 6 of your exhibit No. 96, tell me the source of your comparative freight rates in the top block, please.

A. The source?

Q. Yes.

A. I think you will find practically all of it on pages 3 and 4.

Q. In other words, you have drawn those lines and those cliffs from pages 3 and 4?

A. Yes.

Q. Is that correct?

A. Yes, sir.

Q. On page 7 you show rates between certain Central Freight Association points and Eastern points and Southwestern points. You have shown the rate to El Paso. That is the old rate without the elimination of differentials, is it not?

A. What page is that?

Q. Page 7.

A. Which rate are you talking about?

[fol. 2003] Q. Take, for instance, the rate from Chicago to El Paso. You show the first class rate as $3.51. Is that the rate with the differentials added?

A. It is the rate prescribed in the 21st Supplemental Report as explained by the explanation of column B. At least, it was intended to be.

Q. Is it not true that since that time the differentials have been eliminated?

A. They have as to first class. They have not as to some commodities.

Q. Now, could you tell us what percentage of the traffic of the shippers that you represent moves intraterritorially, or interterritorially on strictly class rates?

A. We don't hardly know what a class rate is in our territory; we have too many exceptions.

Q. On page 9 you show the so-called class arbitraries that were prescribed in the 21st Supplemental Report. They became effective in 1937. Do you know of any changed conditions in the territory now that did not exist at the time those rates were put into effect?

A. No material change, no, but we were not satisfied with that adjustment. We did not believe it took care of the conditions that then existed.

Q. That is what you are attacking here, is that right?

A. I am not attacking anything. I am here representing [fol. 2004] my views to this Commission in a proceeding initiated by the Commission.

Q. You are asking the Commission to correct that situation that you do not like?

A. Yes.

Q. Is that right?

A. Yes.

Q. In this proceeding?

A. Yes.

Q. Now, in some of your sheets, from 23 to 38 inclusive, I believe you show rates on cotton.

A. Yes.

Q. Do you know of any rates that move in the Southwest —or rather, cotton that moves in the Southwest on class rates or exceptions to class rates?

A. None that I know of.

Q. Do you know of any furniture moving in the Southwest on class rates or exceptions to class rates?

A. They move on various rates. Some of the minimum weights I believe apply on class rates. Others have commodity columns or commodity rates.

Q. But are they shown as class rates, or as exceptions to the class rates?

A. They are shown as exceptions, usually. Less than carload furniture does move on class rates.

[fol. 2005] Q. How about lumber shown on page 30? Does that move on a class rate or on an exception to a class rate in the Southwest?

A. No. They have commodity tariffs applying on lumber.

Q. As to wrapping paper and paper boxes, how does that move, on what rates?

Chairman Aitchison: Just a minute, on lumber.

Mr. Barron: Yes.

Chairman Aitchison: It may move from producing points on commodity rates, but when it moves from one station to another other than from a producing point, it moves on class rates, does it not?

The Witness: If it moves from one station to another in our territory, Mr. Chairman, it moves on commodity rates.

Chairman Aitchison: Throughout? I am not talking about producing points. I am talking about from one station to another, where a producing point is not involved.

The Witness: I do not know. That is, I am not sure. I would not say.

Chairman Aitchison: Proceed, Mr. Barron.

By Mr. Barron:

Q. On page 32 you show rates on wrapping paper, and paper boxes, for instance, from Crossett, Arkansas to Chi-

cago, Illinois. You show that as 84 cents, the fifth class rate.

Chairman Aitchison: He corrected that to 110.

The Witness: I do not know. That is, I am not sure. I would not say.

Chairman Aitchison: Proceed, Mr. Barron.

By Mr. Barron:

Q. On page 32 you show rates on wrapping paper, and paper boxes, for instance, from Crossett, Arkansas to Chicago, Illinois. You show that as 84 cents, the fifth class rate.

Chairman Aitchison: He corrected that to 110.

[fol. 2006] The Witness: I corrected that to be 110 per cent.

By Mr. Barron:

Q. Do you not know that there is a commodity rate of 40 cents that moves all of that paper out of Crossett?

A. Well, 110 per cent of 42 is 46.

Mr. Barron: I did not know that you had corrected that. I did not hear you.

By Mr. Barron:

Q. In presenting this case to the Commission, is it your idea, Mr. Murray, that the rates that are presently in effect in Official territory should be made to apply in Southwestern territory?

A. No.

Q. Well, what are you asking the Commission to do here?

A. I am asking the Commission to fix a scale that will apply within the entire territory. I am not asking for the present Official scale.

Q. Then you could bring about the result you desire by taking the Southwestern scale and making it apply all over the territory, could you not?

A. It would bring about equality, provided it did not become so high it would not move the traffic, and your competitors would get it, which they are doing in the Southwest.

Q. You say the competitors are getting the business in the Southwest?

A. Yes. Year before last they handled about 1,100 cars of tomatoes, canned tomatoes and other canned goods you

[fol. 2007] were talking about from Indiana and Illinois to the state of Arkansas alone by truck.

Q. Do you know whether or not the cannery business in Arkansas in the 1940-1941 season and the 1942 season showed a substantial gain?

A. It did, in 1942. I do not recall what it was in 1941.

Q. Would you want the Commission in order to arrive at this equalized basis, we will call it, to fix for the Southwest the same rates on raw materials as they would fix them for application in Official Classification territory?

A. If the Commission after due investigation found that the rates for a given haul on any commodity should be a certain amount, I would have no objection to that being applied throughout the territory.

Q. Let us take the question of cotton. You are familiar with the rates on cotton, are you not?

A. Yes, sir.

Q. Would you want to see the same rates applicable in the Southwest on cotton as might be found reasonable for application in Official Classification territory?

A. If the circumstances surrounding the gathering of cotton were the same in Official territory, yes.

Q. Well, you know they are not, do you not?

A. I said, if they were, I would not object.

Q. Would you want the Commission to fix a rate from the [fol. 2008] Southwest on cotton on basis of whatever rate they would find as reasonable for application in Official territory?

A. I do not know whether I can answer that.

Q. You can answer it, if you will.

A. You are asking if I will do something, or if I will agree to something, based upon the assumption that there is a possibility that you would have a certain condition with respect to cotton in Official territory.

Q. No.

A. The Commission has found in several cases that cotton requires special treatment.

Q. You understand my question, do you not?

A. Yes. I think I answered it.

Q. All right. That is the answer you want to give to it, is that right?

A. That is right.

Q. Take the question of livestock: Would you want the Commission to fix the same rates on livestock——

Chairman Aitchison: We excluded the exhibit with respect to livestock, Mr. Barron, on your objection. If you go ahead with it, we may have to put it in.

Mr. Barron: I was just carrying this to the extreme to find out how far he wanted to go.

Chairman Aitchison: I want to warn you that if you pursue your examination with respect to livestock, we will have [fol. 2009] to reverse the ruling.

Mr. Barron: Thank you for the warning, sir.

By Mr. Barron:

Q. Let us take the rate on petroleum and its products. Would you have any reason to believe that a rate reasonable for application in Official territory would be reasonable for application from the Mid-Continent territory?

A. I think as to your basic carload commodity, wherever you find a general traffic movement, the same rates ought to apply; the rates ought to be the same.

Q. That is regardless of whether conditions would be the same or not?

A. I said, considering the traffic movement.

Q. Well, is there any difference in the conditions, transportation or otherwise, in the Southwest, than in the Official Classification, that you know of?

A. A very great difference. I tried to explain it. The difference is that the Official territory has an extreme advantage today, in my opinion.

Q. In what respect?

A. In having its lower rate adjustment, its general adjustment.

Q. Do you know of any traffic or transportation conditions that would warrant the Southwest having the same rates as the Official territory?

Chairman Aitchison: Are you talking about petroleum [fol. 2010] now?

Mr. Barron: I am talking about traffic in general.

Chairman Aitchison: When did you change from petroleum?

Mr. Barron: When he said he thought it ought to be the same.

Chairman Aitchison: You are going to discuss the general problem, then?

Mr. Barron: That is what I am asking now.

Chairman Aitchison: Very well.

By Mr. Barron:

Q. Speaking generally, would you say that the traffic and transportation conditions in the Southwestern territory warranted a different level of rates than in Official territory?

A. I think not.

Q. And the reasons are what? What are those reasons?

A. The reasons I gave in the three answers to your last three questions.

Q. Repeat them for me. I did not get them.

A. That wherever the Commission finds traffic conditions similar or wherever they find the general traffic trend similar, the rates should be similar, but there is an additional reason: I have never been able to understand why the Southwestern lines did not really try to industrialize their section which can only be done by giving the manufacturer a rate that will permit that industrialization.

[fol. 2011] Q. Do you know of any manufacturer in the Southwest that has not been given consideration in the rates so as to enable him to distribute his products?

A. I know manufacturers that have been given consideration, but they have not had successful results.

Q. So it was not a question of freight rates as to whether they were prosperous or not, is that correct?

A. You have a rate from Chicago to Wichita, Kansas on paper boxes on a 12,000 pound minimum. The rate from Little Rock is 48 cents, with a 20,000 pound minimum. The railroads serving Little Rock, reaching Wichita, refuse to reduce the rates to the Little Rock manufacturer.

Q. What is the rate from Hutchinson, Kansas on the same commodity?

A. I do not know.

Mr. Barron: That is all.

Chairman Aitchison: Is there anything further with Mr. Murray?

Mr. McCollester: One question.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. If I correctly understood you, it was your direct testimony that the Southwestern Committee of whom you were chairman, answered the Commission's question that there should be one uniform classification throughout the country; is that correct?

[fol. 2012] A. That is correct.

Q. Has your committee given consideration to the question, and if so, what has been its conclusion, as to how uniformity should be arrived at and what the classification should be in those instances where at the present time a particular commodity may be rated differently in one territory from its rating in another territory?

A. On the commodities where they are now rated that way?

Q. Yes.

A. You see, our position is that we want a uniform scale of rates. Now, if we have a uniform classification applied to that uniform scale, there will not be any difference in one territory than in the other, because there will only be one territory.

Q. But which territorial rating would you take as the proper one for the uniform classification? I understand there are some hundreds of instances where there are different ratings in different territories.

A. There are, but we have not decided what to suggest at this time to the Commission as to what the rating should be on each commodity at any particular place.

Mr. McCollester: That is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Murray?

Mr. A. L. Reed: I have one or two questions, Mr. Chair-

[fol. 2013] man.

Chairman Aitchison: Mr. A. L. Reed.

By Mr. A. L. Reed:

Q. Mr. Murray, I am interested in your question of uniform classification. Bearing in mind that you have in Official many class relationships that do not exist in the Southwestern or Western territories, how did your committee propose to establish uniformity in those instances where a commodity is rated rule 26 or something of that kind, some

rating of that nature, in Official and no such percentage relationship in the Southwest?

A. Well, our idea about that, of course, is that in giving consideration to the rating to apply to a given commodity, the Commission will abolish those exceptions. However, we have not suggested yet what the ratings would be.

Q. I am not speaking of the exceptions. I am speaking of ratings in the Official Classification that do have specific application to their rate scales in Official territory such as rule 26, class 6 or 7 or something of that character, the ratings in Official for which you do not have corresponding percentage relationships in the Southwest.

A. Well, when we have uniformity we may not have rule 26 anywhere.

Mr. A. L. Reed: The question I want to ask you is this:

By Mr. A. L. Reed:

Q. What consideration did your committee give as to how uniformity would be established? Would you take those [fol. 2014] Official ratings and transplant them into the Southwest, or vice versa? What was the idea of the committee on that question?

A. The idea of the committee, Mr. Reed, was that the Commission would arrive at a reasonable classification rating to apply to a given commodity and then apply that rating throughout the territory here involved.

Q. It was your theory then, and that of your committee, that you would have a complete revision of the classification ratings so that uniformity might be established?

A. Not necessarily complete revision. The ratings are alike in the three territories on many commodities.

Q. What I want to know is whether or not your committee gave consideration to the variety in class relationships, Official territory versus the Southwest and how you wanted uniformity established. Do you want the Official relationship or the Southwestern relationship made the basis for establishing uniformity?

A. When I said we had not decided at this time to suggest ratings for the classification, I meant to be understood as saying we have not given it proper consideration.

Q. Then the committee has reached no conclusion as to how it would desire to have uniformity established?

A. No, sir.

Mr. A. L. Reed: One more question.

[fol. 2015] By Mr. A. L. Reed:

Q. You said something in your direct statement about the Commission giving more consideration to density and less consideration to value. Did that relate to less than carload traffic and carload traffic, both, or either?

A. I think it should relate to both.

Q. To what extent would you have the Commission disregard value in fixing less than carload classification ratings on high class manufactured commodities?

A. If you would like my personal view, I would like to give it to you.

Q. I am asking for your view as a witness.

A. I think you ought to have a classification for less than carload freight that would not be more than possibly 50 pages, and carry in that classification only light and bulky articles. The other articles not shown in the classification would take one class. The classification would provide that shipments made under this classification are at shipper's risk, and you would provide an insurance policy on the front of the classification if he wants to insure them. That takes into consideration the space occupied in a car. There is one thing about it which I do not know how it could be overcome, and that is that a railroad or nobody else can avoid his own negligence.

Q. Would it be in the interest of manufacturing industries in the Southwestern territory to have less than carload ratings from Official territory made so as to disregard [fols. 2016-2017] value and ability to pay charges?

A. Well, I did not say, disregard value. My answer to that is "No".

Mr. A. L. Reed: Thank you.

Chairman Aitchison: Is there anything further with Mr. Murray?

Mr. Widell: I have one or two questions, Mr. Chairman.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until 8:30 tomorrow morning.

(At 5:00 o'clock p. m., September 30, 1942, an adjournment was taken until 8:30 o'clock a. m., October 1, 1942.)

[fol. 2018]

Hotel Claypool,
Indianapolis, Indiana,
October 1, 1942.

Met pursuant to adjournment at 8:30 o'clock A. M.

Before Division-2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner.

Hon. J. Haden Alldredge.

And a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances: As heretofore noted.

[fol. 2019]

Proceedings

Chairman Aitchison: Come to order, please, gentlemen. Mr. Murray is still on the stand for cross-examination by Mr. Widell.

J. C. Murray resumed:

Cross-examination (continued):

By Mr. Widell:

Q. Mr. Murray, in your proposal I understand you contemplate the cancellation only of the existing exceptions to the classification, is that true?

A. I did not say that.

Q. Do you contemplate a cancellation of all existing commodity rates as well?

A. I did not say that.

Q. Well, what did you say?

A. I said we wanted a uniform mileage scale of rates with a uniform classification.

Q. Now, are you thinking in terms of the west and southwest and all other sections of the country as well?

A. I am thinking of the territory involved in this proceeding. You are familiar with it, I believe.

Q. Have you given consideration to the effect of that on Southern territory, for instance?

A. Southern territory is involved in this proceeding.

Q. Have you given consideration to the effect on carriers [fol. 2020] and industries in Southern territory?

A. I have made no study of costs, and therefore I have not been able to give consideration to the effect upon the carriers.

Q. Do you have any personal knowledge of industrial conditions in Southern territory?

A. I think I have a fairly good knowledge, yes, sir.

Q. Then you have given some consideration to the effect upon the carriers and industries in the Southern territory?

A. I did not give that any consideration, the effect upon the carriers. As to industry, my position is that we must have a revision in the rates in order to industrialize the Southwest.

Mr. Widell: One more question.

By Mr. Widell:

Q. In achieving this uniformity you speak of, is it correct to assume that that will include all forms of transportation rates, charges and practices?

A. In so far as they are involved in this proceeding being considered here today.

Mr. Widell: Thank you, sir.

Chairman Aitchison: Is there any further cross examination of Mr. Murray? (No response.) Have you anything further, Mr. Bee, with this witness?

Mr. Bee: No.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

[fol. 2021] Mr. Bee: Mr. Frye.

Chairman Aitchison: Raise your right hand and be sworn.

P. A. Frye was sworn and testified as follows:

Direct examination.

By Mr. Bee:

Q. Will you state your full name for the record, please, Mr. Frye.

A. P. A. Frye.

Q. You are secretary of the Public Service Commission of the state of Louisiana?

A. I am.

Q. You are a member of the Steering Committee of the Southwestern Committee?

A. I am.

Q. Your state is also a party to the Southern Governors Conference presenting this case before the Commission?

A. Yes, sir.

Q. Louisiana happened to be on both sides of the river?

A. Yes, sir.

Q. Have you in your official capacity as secretary of the Louisiana Commission had occasion to study into the rates, ratings and method of rating on synthetic rubber?

A. I have, first.

Q. First will you state to the Commission what the classification ratings are on synthetic rubber.

[fol. 2022] A. You are speaking of carloads?

Q. Yes.

A. Item 39665-A of Consolidated Classification provides classification ratings on rubber, synthetic rubber, carloads, subject to a minimum weight of 40,000 pounds, of fourth class in Official territory, 50 per cent of first class in Western territory and 50 per cent of first class in Southern territory.

Q. Is there now constructed and in operation in the state of Louisiana a plant making and manufacturing synthetic rubber?

A. Yes, sir. There is, at North Baton Rouge, Louisiana.

Q. Are there other plants contemplated?

A. Yes. There are other plants projected at other points in that territory.

Q. When this plant was put into operation and first started shipping, what rates were in effect, if you know, on rubber to consuming points?

A. At the time the plant was first started and began shipping, there was in effect from Southern to Official territory a basis of rates somewhat lower than the Classification basis, that is, 50 per cent of the 13494 scale. I am sorry that I am not in a position to describe the exact basis of those rates, but they were related, as I recall, to the import rates on crude rubber and the import rates on crude rubber, as I recall, are on the basis of 35 per cent of first [fol. 2023] class plus 3 cents per hundred pounds.

Chairman Aitchison: Cannot this be brought to a focus? What is this all about?

Mr. Bee: We are going to attempt to show the Commission the effect of the northern lines, or the power of the northern lines to prevent through rates from the South and Southwest into that territory, and I know of no other way to develop it except to just ask the witness directly to state how. I can lead directly to it that way.

By Mr. Bee:

Q. When the plant was started and under operation, were the special rates cancelled, Mr. Frye?

A. These rates I have just referred to were cancelled effective April 20, 1942.

Mr. Bee: We ask that there be marked for identification, Mr. Chairman, exhibit No. 99.

Chairman Aitchison: It may be so marked.

(Exhibit No. 99, Witness Frye, marked for identification.)

By Mr. Bee:

Q. I hand you herewith an exhibit of one page marked Exhibit No. 99.

A. Yes.

Q. What is that?

A. This is a statement showing short-line distances, routes and rates in cents per hundred pounds on synthetic rubber, carloads, from representative origins in the Southwest to representative destinations in Official and South-

[fol. 2024] western territory, and rates for the same distances in Official territory. I would like to add that the rates shown on this exhibit are the basic rates. Ex Parte 148 increases have not been added.

Q. Now, on that date in April, 1942, when the special rates were cancelled, the rates shown in column 4 of your exhibit under the designation "Rate Class 50" became effective, did they not?

A. That is correct.

Q. Today the rates in the column following that marked "Rate for same distance in Official territory, class 36" are in effect?

A. They are in effect from Baton Rouge, Louisiana, yes.

Q. Will you explain in your own language what was necessary to secure the application of those rates and how long it took you to do it, as briefly as possible.

A. The plant located at North Baton Rouge was started by the Standard Oil Company of Louisiana some two years ago; that is, the construction of it was started at that time. It has since been greatly enlarged. It started shipping several months ago, or on or about the first of this year. Immediately after they started shipping, they began shipments both carloads and less than carloads to Official territory. Incidentally, there existed in Official territory on synthetic rubber, carloads, an exception to the classifica-
[fol. 2025] tion basis of 36 per cent of first class, that is, the 15879 scale subject to a carload minimum weight of 60,000 pounds. After the special rates that I have previously referred to in my testimony were cancelled on April 20th of this year, that only left in effect from the South to Official territory the 50 per cent of the first class 13494 scale. The shippers at that time began——

Chairman Aitchison: You have answered the question. The question was, what rate became effective.

The Witness: 50 per cent of the 13494 scale.

Chairman Aitchison: That answers the question.

Mr. Bee: No. I asked him to describe the proceedings necessary to secure that rate, Mr. Chairman.

Chairman Aitchison: I thought you just asked him what the rate was.

Mr. Bee: No. I asked him to describe in his own language as briefly as possible the proceedings necessary to secure the Eastern basis.

Chairman Aitchison: Proceed.

The Witness: After the special rates were cancelled, the shippers began to negotiate for a new scale of rates. They felt like they were entitled to the Official territory level. They convinced the Southern lines that they were entitled to such a level. A proposal was filed and processed in the usual manner by the Southern lines, who agreed to the [fol. 2026] Official level. When the matter was submitted to the Official lines, the Trunk lines of Official territory issued a non-concurrent report. Subsequently, as a result of certain influences and upon reconsideration the Official lines concurred in the proposal and the new rates were published from North Baton Rouge and are in effect and have been since the 2nd of this month, but they are only published from Baton Rouge proper to destinations in Official territory and not from other prospective producing points in the South and Southwest.

By Mr. Bee:

Q. Then to state it briefly, although it was a war period, it required a going industry from April until September to secure the same rates that its competitor was enjoying?

A. That is correct.

Q. If we had a uniform classification, and a uniform rate scale, it would have been unnecessary, is that true?

A. That is true, yes, sir.

Q. Have you anything further to add, Mr. Frye?

A. I think not.

Mr. Bee: You may cross-examine.

Mr. Barron: Just one question.

Chairman Aitchison: Mr. Barron.

Cross-examination.

By Mr. Barron:

Q. Is there any production at these Southwestern points [fol. 2027] shown in your Exhibit No. 99?

A. I am sorry, but I did not get the question.

Q. Is there any production at these Southwestern points shown on your Exhibit No. 99?

A. I know of no production at these points at this time, but plants are springing up all around, as you know.

Q. They are also spreading around in Western Trunk Line territory, are they not?

A. Yes. I think it is general all over the country.

Mr. Barron: That is all.

Chairman Aitchison: Is there any further cross-examination? (No response.)

Mr. Bee: I ask that Exhibit No. 99 be received in evidence, Mr. Chairman.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 99? (No response.) Without objection, it is received.

(Exhibit No. 99, Witness Frye, received in evidence.)

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Bee: Mr. Dehne.

Chairman Aitchison: Raise your right hand and be sworn.

C. C. DEHNE was sworn and testified as follows:

[fol. 2028] Direct examination.

By Mr. Bee:

Q. Your name is C. C. Dehne?

A. That is right.

Q. State where you live and the business in which you are engaged, Mr. Dehne.

A. Stuttgart, Arkansas, manager of the Arkansas Rice Traffic Bureau.

Mr. Bee: I ask that Mr. Dehne's exhibit be marked for identification as Exhibit No. 100, Mr. Chairman.

Chairman Aitchison: It may be so marked.

(Exhibit No. 100, Witness Dehne, marked for identification.)

By Mr. Bee:

Q. I hand you herewith an exhibit which has been identified as No. 100.

A. Yes.

Q. Will you explain what that is.

A. This is an exhibit prepared by myself which covers rates on rice and its products from the Southwest to territory east of the Mississippi River, principally.

Q. Now, first will you say what your organization is composed of.

A. The Traffic Bureau represents a number of shippers and receivers of freight among whom are rice mills at Carlisle, DeWitt, Harrisburg, Jonesboro, Newport, Stuttgart and Tuckerman, the seven largest rice mills in the state.

Q. Go to the map and explain it very briefly.

A. Page 2 is a map showing the location of the rough [fol. 2029] rice-producing territory within Arkansas, Louisiana and Texas and by star the rice mill locations are shown. In reproducing this map these stars have been rather obliterated. In Arkansas rice mills are located at Carlisle, DeWitt, Harrisburg, Jonesboro, Newport, Stuttgart and Tuckerman.

Q. Give us the rice mills in Louisiana, Mr. Dehne.

A. Abbeville, Church Point, Crowley, Estherwood, Eunice, Gueydan, Jennings, Kaplan, Lake Charles, Mermentau, New Iberia and Rayne.

Q. Give us the mills in Texas.

A. In Texas, Bay City, Beaumont, El Campo, Houston and Orange.

Q. Roughly speaking, the rice production is in the southern portion of the territory shown on the map except the Arkansas production, what is about in the central portion of the map.

A. Yes, as shown by the shaded areas.

Q. Go to page 3, please, Mr. Dehne.

A. Mr. Bee, I would like to explain that rice mills outside of the source of the rough rice production are located at Baton Rouge and New Orleans, Louisiana, Memphis, Tennessee, and St. Louis, Missouri.

Q. Pardon me.

A. It has been necessary to name all of these points because this exhibit is for the rice industry in general.

Q. Explain page 3.

A. Page 3 is the estimated rice consumption by states [fol. 2030] taken from bulletin No. 3, Home Economics Department, Rice Milling Industry, and shows first that within Central Freight Association territory 12.79 per

cent of the rice is consumed; in Trunk Line territory, 11.79 per cent; in New England, territory, 2.23 per cent; or within Official territory, a total of 26.81 per cent of the rice consumed within the continental United States..

Q. Turn to page 4 and briefly explain what that shows.

A. Page 4 is a comparison of Official, Southern and Southwestern first class rates and related percentages thereof for equal distances.

Q. Is there a correction on that page to start with, Mr. Dehne?

A. Yes. Under column 8, opposite Southwestern 5th class is shown 40 per cent. I would like that to be corrected to 37½ per cent.

Q. That would change the rates for the entire column, would it not?

A. Yes, sir. That will change the rate opposite "S. W." all the way down that column. At 500 miles, instead of 78 cents it should be 73 cents. At 900 miles, it should be $1.06 instead of $1.13.

Q. Every column shown at the top of the map represents an actual rate that you use somewhere at some time, or that some rice mill uses, is that correct?

[fol. 2031] A. Yes. All of the columns other than first class.

Q. What is the actual classification of rice in the classification?

A. Rice is classified 6th in less than carloads and carloads respectively in the Official classification, 6th and 27½ in the Southern and 4th and 5th in Western classification.

Q. What are the three important columns shown on page 4 to the rice industry or to your portion of the rice industry?

A. Columns 16, 17 and 18 are all important to the rice-milling industry because they are the normal carload ratings on clean rice. Rates in Official territory are class 27½-K, or as shown under column 16. Rates in Southern territory, or from Southern territory to Official territory, are class 27½-V, or as shown under column 17. Rates in Southwestern territory or from Southwestern territory to Official and Southern territories are class 26, or as shown under column 18.

For example, at 500 miles the Official class 27½-K rate is 33 cents. The Southern class 27½-V rate is 45 cents.

The Southwestern class 26 rate is 51 cents. The 5th class Western classification rate is 73 cents.

Q. In the Southwest?

A. Yes, sir. At 900 miles the Official rate is 45 cents, the Southern rate, 62 cents, Southwestern class 26, 73 cents, and Western 5th class rate is $1.06. From rice mill origins [fol. 2032] in Arkansas, Louisiana, Texas, Memphis, Tennessee, and New Orleans, Louisiana, depressed rates are in effect and will be discussed on pages 5, 6 and 7.

Page 5 is a comparision of distances, first class rates, normal rates, and so-called depressed rates on clean rice with per car mile and per ton mile earnings from the five rice mill origin groups to points in Southwestern territory and Mississippi-Missouri river crossings. Page 6 is a similar compilation to destinations——

Q. I think that page is self-explanatory, Mr. Dehne.

A. All right.

Q. Page 7 is a similar one and shows destinations?

A. Yes.

Q. Go to page 8.

A. Page 8 is a comparison of column 26 of the Southwestern scale, column 27½-V or 27½-J of the Southern scale with column 27½-K of the Official scale for equal distances. These rates and distances have been taken from the preceding pages, 5, 6 and 7, and are explained in the first two columns of this exhibit.

Mr. Bee: I would like to have explained at this point, please, what the 27½-K scale is and why you call it the "K" scale. If counsel may make a statement, Mr. Chairman, in Official territory rice should be column 27½. When the Commission authorized in Ex Parte 123 the 10 per [fol. 2033] cent increase, they authorized only a 5 per cent increase on certain commodities, rice being one of them. That caused the carriers to have two 27½ scales, one increased 10 per cent and one increased 5 per cent. Then it goes out of the classification and goes into a classification exception. That is the point I want to make, if the Commission will accept my statement, or if necessary I will put it on through the witness.

Chairman Aitchison: Is there any dissent from that statement? (No response.) That seems to be sufficient.

By Mr. Bee:

Q. Now, take your last page of your exhibit, page 9.

A. Page 9 is a map of the territory involved in this proceeding. I have shown the short-line distance from Stuttgart, Arkansas, to Cairo, Illinois, which is 267 miles, and the class 26 rate is 35 cents. From Cairo, Illinois, to Indianapolis, the distance is 278 miles, and the rate is 24 cents. The through short-line distance from Stuttgart, Arkansas, to Indianapolis, is 526 miles, and the Southwestern class 26 rate is 48 cents. The Official territory rate for that same distance would be 34 cents. Similar comparisons have been made from Crowley, Louisiana, to Cleveland, Ohio and from Houston, Texas, to Jamestown, New York, portraying equal distances, or distances within the same block.

Q. Where it was necessary to go beyond the distances [fol. 2034] for which rates are actually shown in Official territory, you progressed the scale at the same rate that it was progressed for the last 100 miles?

A. Yes, sir. To the best of my ability that was the procedure I tried to follow.

Q. Mr. Dehne, in shipping rice into Official territory, are you able to secure lower than the published railroad rates by authorized interstate carriers, and if so, how?

A. Yes. From one of our mills at Jonesboro, Arkansas, we are transporting rice by contract motor carrier and by a common motor carrier to Cairo, Illinois, at a rate of 18 cents per 100 pounds. That rate added to the Official territory 27½-K rate, for example to Pittsburgh, Pennsylvania, produces a combination of 56 cents against the through rate of 63 cents or defeats the through rate by 7 cents.

Q. You mean, it is lower than the through rate?

A. Yes.

Q. The through rail rate.

A. The combination over Cairo is that much less than the through rate.

Q. Yes.

A. At Buffalo, New York, it is 7 cents, Philadelphia, Pennsylvania, 9 cents, New York City, 9 cents, and Boston, Massachusetts, 11 cents. Those are typical of what takes place at all destinations east of the Buffalo-Pittsburgh line.

[fol. 2035] Q. If you had available from the Southwestern mill points direct to these destinations in Central Freight Association and Trunk Line territories, the same scale that applies in that territory, it would not be advisable or profitable for you to use this truck line, would it?

A. Certainly not.

By Comm. Alldredge:

Q. Do you reship at the border?

A. Yes, sir.

By Mr. Bee:

Q. Will you briefly explain to the Commission the advantage, if any, that a mill at St. Louis has over a mill located at the source of supply in Stuttgart?

A. The rice mill in St. Louis draws rough rice from what we call the north end of the rough rice production territory on a rate of 21 cents. That rate added to the class 27½-K rate beyond St. Louis produces rates which defeat the through rate on clean rice from the Arkansas group at Indianapolis, 4 cents; Chicago, 7 cents; Cincinnati, 5 cents; Detroit, 6 cents; Cleveland, 4 cents; Pittsburgh, 4 cents; Buffalo, 5 cents; Philadelphia, 7 cents; New York, 7 cents; and Boston, 9 cents.

Q. And the mill at St. Louis is using the lawfully published railroad interstate rates?

A. Yes, sir.

Mr. Bee: Before turning this witness over for cross-examination, I would like to direct the Commission's [fol. 2036] attention to the fact that in this instance the Western classification rating on rice is column 50, 50 per cent of first class, and it is not one of the so-called 10 classes. That is, that is the actual rating in the classification, but it is not one of the 10 known classes in the Southwest.

By Mr. Bee:

Q. Have you anything further to add, Mr. Dehne?

A. Only this: it requires 14 pages of classification rules, regulations and classification exceptions, rules and regulations to check a rate on rice. In item 18745 of the Consolidated Classification, under the carload ratings, rice in Offi-

cial territory takes 6th class, Southern territory 27½, and Western, 5. We think that spread is too great.

Q. You would be agreeable to any rate that was uniform and reasonable, applicable throughout the territories?

A. Yes.

Q. You would like one classification on your rice?

A. Yes, sir.

Mr. Bee: We offer in evidence Exhibit No. 100, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit No. 100? (No response.) Without objection it is received.

(Exhibit No. 100, Witness Dehne, received in evidence.)

The Witness: I would like to add one more thing.

Mr. Bee: All right.

[fol. 2037] The Witness: Throughout Exhibit No. 100, wherever a minimum weight of 20,000 pounds is shown, that rate was cancelled effective September 5, 1942.

By Mr. Bee:

Q. Since the exhibit was prepared?

A. Yes, sir.

Mr. Bee: That is all.

Chairman Aitchison: You may cross-examine.

Mr. J. R. Bell: I have one question.

Chairman Aitchison: Mr. Bell.

Cross-examination.

By Mr. J. R. Bell:

Q. I have not understood that the great bulk of the movement of rice from the Texas and Louisiana producing points was on class rates and class ratings. Is that the situation?

A. Yes, sir.

Q. I thought you had obtained commodity rates that moved a great bulk of that commodity.

A. The commodity rates——

Q. From Texas and Louisiana producing points. I know that the decisions of the Commission are full of Lake Charles rice milling cases, and so forth.

A. These depressed rates do move the bulk of the rice from Louisiana and Texas points.

Q. Those are special commodity rates established by the railroads for the purpose of moving your rice from Texas [fol. 2038] and Louisiana producing points, are they?

A. No, sir. They were established to meet motor truck competition.

Q. They were established by the railroads, were they not?

A. Yes.

Q. Irrespective of what the purpose was, those special commodity rates referred to by you as depressed rates move the great bulk of the rice produced in Texas and Louisiana, is that not correct?

A. Yes, sir.

Mr. J. R. Bell: That is all.

The witness: I might explain——

Mr. Bee: Go ahead.

The Witness: —that these depressed rates have had the effect of breaking down the relationship prescribed by the Commission in Docket 26430, 219 I. C. C. 5.

Chairman Aitchison: Are there any other questions?

Mr. McCollester: I have one question.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. There is no rice grown or milled in the state of New York or Eastern Trunk Line territory, is there?

A. No, sir.

Q. Now, is it not a fact that a great part of the rice from the Texas and Louisiana mills to New York and Eastern [fol. 2039] Trunk Line territory moves by water in normal times?

A. It did, yes, sir.

Mr. McCollester: That is all.

Mr. Barron: One question.

By Mr. Barron:

Q. Mr. Dehne, do you advocate the establishment of the C. F. A. scale of rates on rice from the rice producing points of Arkansas, Louisiana and Texas?

A. I would rather leave the level of the rates up to the Commission.

Q. Are you advocating them? Can't you tell us that?
A. No, sir. I am not advocating that.
Mr. Barron: That is all.

Chairman Aitchison: Is there any further cross-examination of this witness? (No response.) Have you anything further, Mr. Bee?
Mr. Bee: No.
Chairman Aitchison: You may stand aside.

(Witness excused.)

Chairman Aitchison: You may call your next witness.
Mr. Bee: Mr. Thatcher.
Chairman Aitchison: Be sworn.

H. K. THATCHER was sworn and testified as follows:

Direct examination.

By Mr. Bee:

Q. Will you state your full name for the record, please, [fol. 2040] Mr. Thatcher?
A. H. K. Thatcher.
Q. What official position do you hold with the state of Arkansas?
A. I am the Executive Director of the Arkansas Agriculture and Industrial Commission.

Chairman Aitchison: What was that?
The Witness: The Arkansas Agriculture and Industrial Commission.

By Mr. Bee:

Q. In that position what are your duties, largely?
A. My duties largely are to develop and promote agriculture and industry, particularly to develop industries that can make use of our natural resources.
Q. How long have you held that position?
A. My immediate position?
Q. Yes.
A. Five years.
Q. What was your experience prior to that?
A. Well, I have been in Arkansas some 26 years, primarily working either for the state or the Federal govern-

ment, starting in as a county agricultural agent and coming up the line.

Q. What class of work have you been engaged in? What has been the purpose of your work?

[fol. 2041] A. The first part of my work in Arkansas, of course, was entirely devoted to the development of agriculture, but the latter part has been to develop industries.

Q. Have you attempted recently to develop any industries in Arkansas?

A. Yes, sir. For the past five years that has been my sole job.

Q. What has been your experience in that department, Mr. Thatcher?

A. Well, our effort has been to try to show the people, the industrial people, that Arkansas has natural resources, labor and power and what it takes to produce and support industry. Our difficulty has been right along the lone of what this case appears to be, trying to correct inequalities of the freight rates we have had between our location and the populated centers of the north and east.

Q. What has been your success in securing the location of industries for manufacturing purposes in the state of Arkansas?

A. We have not had any too great success. We have always come up against this unequal freight rate proposition. That has been one of the items that kept us from getting capital invested in manufacturing plants.

Q. Will you name some of the larger concerns with whom you have discussed the establishment of plants in the state [fol. 2042] of Arkansas?

A. Well, I suspect that we have had contact with most of the—not all, of course—but we have had contact with all of the big rubber concerns, DuPont, Carbon and Carbide, Guggenheim Brothers, and many others.

Q. What was the result, and if you did not succeed in getting industries, what reason was assigned, if any?

A. Well, in practically every case one of our troubles has been the unequal freight rate. They would ask us when we would get in contact with these concerns, to give them a survey of our conditions, and we would attempt to set out all the advantages and of course the disadvantages, because there is no use trying to be unfair with a man when you are trying to convince him he should spend some money in your locality. In practically every case we have run up against

the unequal freight rates as one of the principal factors that has caused the lack of industrial development within the state.

Q. Speaking from your five years' experience as an official of the state of Arkansas whose duty it is and has been to seek industries, is it your opinion that an equalized freight rate throughout the Southwest and Central Freight Association territory or the eastern district and a uniform classification on manufactured articles would lead to a greater building of manufacturing plants in Arkansas?

[fol. 2043] A. I do not believe we are ever going to get proper development without that equalization.

Q. You think that equalization would bring plants to Arkansas?

A. It certainly would help.

Q. Have you anything further to add?

A. I do not know that I have, sir. That is the meat in the cocoanut.

Mr. Bee: That is all.

Chairman Aitchison: You may cross-examine. Mr. J. R. Bell.

Cross-examination.

By Mr. J. R. Bell:

Q. You named a number of concerns or industries engaged in certain production that you said you had contacted.

A. Yes.

Q. As I understand you, you contacted them in an effort to have them locate plants in your territory?

A. Yes, sir.

Q. Were those concerns principally located in Official territory?

A. If I understand Official territory is the north and east—yes.

Q. May I inquire seriously, in view of the fact you gave this testimony, whether you took into consideration whether or not obtaining the location of plants by industries now [fol. 2044] operating in Official territory would be to the best interests of the nation as a whole.

A. I think decidedly it would be.

Q. And you would consider it to be to the best interests of the nation as a whole to obtain industries of any description now operating in Official territory in Arkansas?

A. No, sir. I would not say that.

Q. What would be your exceptions?

A. I think I said a while ago that the type of industries that we sought were the ones that could particularly use our raw materials and be fitted to our particular locality.

Q. Are those manufacturing industries?

A. Some of them, yes, sir.

Q. Would you mind briefly enumerating the manufacturing industries that you have in mind?

A. Well, I would——

Q. Not the concerns. Merely the commodities.

A. I would say any manufacturing concern or processing plant that could use the raw materials of the farm or the forest or our mines.

Q. That would be practically all industries, would it not?

A. I presume it might be, because we produce nearly everything down there, but some of it is not in sufficient quantities to make it so profitable.

Mr. J. R. Bell: That is all.

[fol. 2045] Mr. Barron: I have one or two questions.

Chairman Aitchison: Mr. Barron.

By Mr. Barron:

Q. Mr. Thatcher, is there any commodity that is produced in Arkansas in any quantity that does not today have a commodity rate or moves on exceptions to the class rates?

A. You are asking me something I do not know about, the commodity rates and so forth. The other gentlemen who have testified will have to answer that.

Q. Arkansas is a rather large producer of canned goods, is it not?

A. We produce a good many canned goods there, yes sir.

Q. You do not know anything about the rates on them, do you?

A. I know that the canneries are always complaining about not being able to reach the congested centers of the United States because of the freight rates.

Q. Do you know whether or not there are special commodity rates on canned goods from Arkansas to a large territory?

A. No, sir. I do not know anything specifically about the rates. I know what the result of the rates is.

Q. Arkansas produces quite a large quantity of bauxite ore, does it not?

A. A very large quantity, yes, sir.

Q. Do you know whether the freight rates are retarding the movement of that ore?

[fol. 2046] A. That being about the only place in the United States that ore could come from, I presume it is fixed so it can move very freely.

Q. As a matter of fact, Mr. Thatcher——

A. What our problem is, is to get a manufacturing plant that can produce and make some of the finished goods out of that bauxite ore. That is what our problem has been. We cannot do it.

Q. Do you know of any commodity produced in Arkansas, the movement of which has been retarded because of the freight rate?

A. (No answer.)

Q. I am asking you if you know that of your own knowledge.

A. I do not know how you acquire knowledge in particular, but I know what the other folks tell me is the trouble.

Q. Tell me the commodities that are produced in Arkansas that you have understood the movement of which has been retarded because of the freight rates.

A. Your canned goods is one thing.

Q. What else?

A. Certain classes of lumber, for another.

Q. What else?

A. I presume the same thing would be true of practically every commodity that is either mined or grown on the farms.

Q. With respect to paper boxes, you produce them in [fol. 2047] Arkansas, do you not?

A. Some, yes.

Q. Would it be possible for you—or rather, let me ask you this: are you aware of the fact that the rates on many commodities that are produced in Arkansas are lower than

they are in C. F. A. territory and by "C. F. A.," I mean Official territory.

A. That may or may not be so, but it does not alter the fact that we are unable to get capital to invest in manufacturing plants in Arkansas, and I presume the same thing holds true in the Southwest because of that unequal freight rate adjustment.

Q. Would you advocate on behalf of the producers in Arkansas the establishment of the Official classification basis of rates?

A. I do not know anything about what the Official classifications are, but I do know we want a uniform rate so we can compete on equal terms with anybody else.

Q. You would be satisfied if your rates were increased so as to bring about that equalization, is that right?

A. I do not know about increasing or decreasing. I want them equal.

Q. Regardless of how that is done?

A. It does not make any difference to me.

Mr. Barron: Thank you, sir.

[fol. 2048] Chairman Aitchison: Is there any further cross-examination? (No response.) Mr. Bee?

Mr. Bee: One question.

Redirect examination.

By Mr. Bee:

Q. Mr. Thatcher, the primary purpose of your department is to establish industries in the state, is it not?

A. That is correct.

Q. You would like to have some industries that would carry that bauxite ore into the finished pot or pan that goes into the home, is that it?

A. That would seem to be our heritage, yes.

Q. Instead of letting the bauxite ore go out of the state and having the pans come back into the state?

A. That is exactly it.

Mr. Bee: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Bee: Mr. Henry.

Chairman Aitchison: Raise your right hand and be sworn.

L. A. Henry was sworn and testified as follows:

Direct examination.

[fol. 2049] By Mr. Bee:

Q. Your name is L. A. Henry?

A. That is correct.

Q. Where do you live?

A. Little Rock, Arkansas.

Q. What official position if any do you have with the state?

A. I am Director of the Arkansas State Planning Board.

Q. Would you tell us briefly what the work of that Board is in so far as transportation or the development of industry is concerned.

A. One of the functions of the Board is to keep and assemble facts concerning resources of the state and all of the data that would be related to the development of the state or the development of the institutions of state government.

Q. By reason of your being the Director of the Arkansas State Planning Board, are you a member of any regional planning board?

A. I am a member of several committees of the South Central Region of the National Resources Planning Board.

Q. What is the South Central Region?

A. It consists of the states of Arkansas, Louisiana, Oklahoma and Texas.

Q. The states which generally comprise what is known as the Southwest?

A. Except, of course, for that part of Louisiana east of the river.

[fol. 2050] Q. Except for the part of Louisiana east of the river?

A. Yes.

Q. Did that joint board make certain investigations into the conditions in the Southwest?

A. Yes, they have. They have continuously and continually made investigations of conditions.

Q. What was the general concensus of opinion of that board of which you are a member as to the mineral resources of the Southwest?

A. In a report made in 1942 by a committee known as the Regional Development Council, consisting of a number of representatives of the four states, including myself, there were several statements and conclusions drawn, one of which I should like to call your attention to. That is a report of the Bureau of Mines that normally about one-fourth of the United States' total mineral production based on value comes from the South Central Region or the four states mentioned earlier.

Q. What was the conclusion of the Board as to gas reserves or fuel reserves to be used for manufacturing purposes in the Southwestern Region?

A. It was estimated that the natural gas reserve in the region ranged from forty-seven to fifty-one trillion cubic feet, or about 50 per cent of the total gas reserves of the United States.

[fol. 2051] Q. What was the conclusion or finding of the Board as to industry generally?

A. There was a general statement—before passing, I would also like to mention the fact that 95 per cent of the bauxite originating in the country comes from that region and from the state of Arkansas. That was brought out by a previous witness.

Q. What was said by the Board relative to industry locations or development?

A. This was concluded by the Committee, that the lack of industrial development in the South Central Region as compared with the United States is indicated by several factors. For instance, the Region has nearly 10 per cent of the national population. It has only 5 per cent of the industrial establishments, 3 per cent of all the wage earners in manufacturing establishments, pays less than 3 per cent of the total wages, and produces only 4 per cent by value of all manufactured products. Moreover, the industries of the South Central Region are responsible for only 3 per cent of the nation's total wealth created by manufacturing. In other words, the manufacturing process in the South Central Region adds but 3 per cent to the finished value

of its manufactured goods. It is also significant to know that the refining of petroleum was responsible for 38 per cent of this amount.

Q. It is the duty of your Board in your state and similar [fol. 2052] boards in other states to assist the Development Agent such as Mr. Thatcher in seeking industries for the states, is it not?

A. Yes. That is one of our functions.

Q. What part of the work do you do in connection with that?

A. We assemble the data with respect to all the factors necessary for study, such as transportation, raw resources, energy, labor, and other elements that are necessary for consideration in a study of that kind.

Q. In your investigation as a state official and as a member of the four state regional board, joint board, have you reached a conclusion as to whether the state of Arkansas and the Southwest generally is underdeveloped from a manufacturing standpoint.

A. I think the statistics just read bring that conclusion as an obvious result.

Q. Have you anything to add, Mr. Henry?

A. I should like to pursue for a moment the matter brought up by Mr. Thatcher, which I do not think was concluded thoroughly, and that is the fact that bauxite alone offers an enormous possibility for Arkansas, if there were assurances that after capital is invested there, the finished products could move competitively on rates comparable with other sections, where heretofore, before the war froze the manufacture of that particular lot of [fol. 2053] commodities, they were in Official territory largely. For example, there were about ten million tons of Arkansas raw bauxite moving out of the state and bringing in a value of approximately $5:50 per ton before any manufacturing of that ore or processing of the ore took place. Following the processing, the value of the products would be increased from about $22 for four tons of bauxite to anywhere from 15 cents a pound, or $300 a ton to perhaps $3,000, depending upon the things or items into which it was manufactured.

Q. There are now facilities in Arkansas or under construction in Arkansas to further the development of the ore to what stage?

A. There are two plants, one of which will bring it to the stage of aluminum bauxite, and the other would bring it to the stage of ingot metal.

Q. But up to the present time there are no facilities in the state of Arkansas to carry it into usable material?

A. That is correct.

Q. That is one of the things you are asking?

A. That is correct.

Mr. Bee: That is all. You may cross examine.

Chairman Aitchison: Is there any cross examination? (No response.) There seems to be none. You may step aside.

(Witness excused.)

Mr. Bee: That concludes the general presentation on my [fol. 2054] part. Mr. Cammack, Assistant Attorney General of Texas, will now take over.

Chairman Aitchison: Call your next witness.

Mr. Cammack: Mr. Tanner.

Chairman Aitchison: Raise your right hand and be sworn.

E. R. TANNER was sworn and testified as follows:

Direct examination.

By Mr. Cammack:

Q. Will you state your full name and residence for the record, please, Mr. Tanner.

A. My name is E. R. Tanner. I reside at El Paso, Texas.

Q. What position do you hold in El Paso?

A. I am secretary and traffic manager for the El Paso Freight Bureau, which serves as the traffic department of the El Paso Chamber of Commerce.

Q. You were designated by the Attorney General to serve as the Texas representative on the Southwestern Steering Committee, were you not?

A. That is correct.

Q. Are you also appearing here representing any other interest?

A. I am also appearing here as representing the El Paso, Texas Chamber of Commerce and the El Paso Freight Bureau.

Q. Will you briefly state your traffic experience?

Mr. Barron: We will admit his qualifications.

[fol. 2055] Mr. Cammack: Thank you.

The Witness: Thank you.

By Mr. Cammack:

Q. You have prepared a 16-page exhibit in four sections, have you not?

A. Yes, sir.

Mr. Cammack: We ask that that be marked for identification as Exhibit No. 101.

Chairman Aitchison: It may be so marked.

(Exhibit No. 101, Witness Tanner, marked for identification.)

By Mr. Cammack:

Q. Was Exhibit No. 101, marked for identification, prepared by you and under your direction, or under your direction?

A. It was.

Q. Is it true and correct to the best of your knowledge and belief?

A. It is.

Q. In your own way will you explain this exhibit as briefly as possible.

A. While this exhibit is largely self-explanatory, I desire to make a few comments in connection therewith. While there are a great number of textile mills in the Southwest, South and New England, I have selected Dallas, Atlanta and Boston as representative producing points in the various territories. Throughout this exhibit where I have [fol. 2056] shown the column 100 first class rates from Texas, they are the first class rates prescribed in the 21st supplemental report in Consolidated Southwestern Cases plus Ex Parte 123 increases.

I have indicated on pages 2, 3 and 4 of Exhibit No. 101 the column bases applicable on cotton piece goods except that I should have also indicated in connection with the rate from Dallas, Texas, to Omaha, on page 2 under column B, 58 per cent of first class, under column C, 52 per cent. and under column D, 58 per cent plus 5½

cents per hundred pounds. The note on page 6 shows the bases in effect on cotton piece goods from cotton-producing points.

Except to points in Northern and Western territories which generally include points in Western Trunk Line territory, the Commission in I. & S. Docket 5144 suspended the bases of column 50, column 45 and column 50 plus 5½ cents. This leaves in effect to Western Trunk Line territory points column 58 on finished goods, column 52 on unfinished goods, and column 58 plus 5½ cents on sheets, and so forth, except to stations in Illinois, Indiana and Kentucky covered by Agent Peel's I. C. C. 3359 and also to some Wisconsin stations and to Mississippi River crossings in Iowa and Missouri, the general Southwestern bases remain effective.

Pages 7-10 inclusive of Exhibit 101 relate to rates on sulphur. The rates shown on sulphur are all commodity rates unless otherwise indicated. The domestic production [fol. 2057] of crude sulphur in the United States for 1940 was 2,732,088 long tons and the amount shipped was 2,558,742 long tons. 81 per cent came from Texas. Nearly 19 per cent came from Louisiana. Less than 1 per cent was produced in California and Utah. By far the largest production in Texas is at New Gulf, and while I have used Freeport, the distance from New Gulf would be slightly less. The complaint of the Union Sulphur Company reported at 81 I. C. C. 382, contains a general review of the commodity freight rate structure on sulphur.

Pages 11 and 12 relate to the rates on cement. The distance blocks used do not follow the exact gradation of the various prescribed scales and are only intended to be representative of such scales. It is unnecessary to describe in detail the territorial application of the various scales. Their scope may be determined by reference to the decisions cited on page 12 of this exhibit and 128 I. C. C. 63.

All Texas intrastate rates beyond 75 miles were uniformly placed upon Western Cement Scale 3 effective September 16, 1940. Subsequent to said date the scale 3 rates were also established on interstate traffic, which had the effect of eliminating Scale 4 territory so far as Texas, Oklahoma and Kansas are concerned. There have not been included in the exhibit specific point-to-point rates. This was deemed unnecessary after a detailed examination

[fol. 2058] of applicable tariffs which disclosed that specific point-to-point published rates for distances involved were on the exact scale bases.

Pages 13 to 16 inclusive deal with rates on grapefruit juice and on citrus fruits. The rates shown are commodity rates and in the main were established to meet truck competition. That is all I have to offer with regard to that exhibit.

Mr. Cammack: Mr. Chairman, I offer in evidence Exhibit No. 101.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 101? (No response.) Without objection, it is received.

(Exhibit No. 101, Witness Tanner, received in evidence.)

By Mr. Cammack:

Q. Mr. Tanner, do you have a statement to make with regard to the so-called differential territory or zone 4 in Texas?

A. I have.

Q. Please proceed.

A. Several witnesses in this proceeding have referred to the revisions of class rates in zone 4, commonly referred to in Texas as diffential territory. Zone 4 was placed on the Zone 3 basis of class rates effective August 16, 1941. This was in response to a petition filed by the railroad companies with the Interstate Commerce Commission on September 7, 1940. They requested authority to make effective [fol. 2059] within so-called zone 4 or differential territory the scale 3 or zone 3 basis of rates.

The petition was granted by the Interstate Commerce Commission in its order in Consolidated Southwestern Cases dated October 16, 1940. Thereafter Director Hardie was requested by the carriers to check out and furnish to them new key rates. This was done as to all differential territory both as to all-rail and rail-water rates. In this connection it might also be pointed out that the rail carriers voluntarily also agreed to cancel the so-called Texas differential rates applicable on traffic in general.

In Docket 28770, the recent Section 13 Texas Grain Case, I submitted an exhibit showing the revenue freight originated and terminated in the Southwestern region for the year ending December 31, 1940, as to commodities in con-

nection with which no differential freight rates now apply, and it indicated that differential rates have been cancelled on 83 per cent of the originated traffic and on approximately 82 per cent of the terminated traffic. I might mention that there are still some differentials applicable in connection with the original class rate scale in the Consolidated Southwestern Cases. There are a few exception ratings carried in section 2 of Southwestern Lines Exception Sheet 173-Q, but those rating are being transferred to section 3 of that tariff as rapidly as possible.

[fol. 2060] Q. Does that complete your statement?

A. No. I have something else.

Q. All right.

A. All differential rates have been cancelled on class and commodity traffic intrastate within the state of Texas. This was accomplished at various times, with the last order becoming effective on November 1, 1941. That order was issued under an agreement between the parties to settle a court case pending in the Travis County Court.

A question was asked Witness Murray by Mr. Barron if the rates to El Paso shown on page 7 of Exhibit No. 96 did not include the so-called differential rates. The rates in column B on page 7 do not include differential rates but perhaps they might have looked rather high to Mr. Barron when he arrived at his conclusion that they did not reflect the revised basis.

I would like to mention one additional fact. The industries located in our community have operated, in large part, under a system of rates that did not contain differentials. I refer particularly in this connection to the copper refineries, the smelting works, the oil refineries, the packing plants, work clothes manufacturers, the iron and steel fabricating plants, the foundries and the cottonseed oil mills. These plants have operated generally under a system of rates that did not and do not at this time include [fol. 2061] so-called differentials. There have not been established at El Paso any industries of any particular moment during the last 10 years. I believe that concludes my statement.

Mr. Cammack: You may cross examine.

Chairman Aitchison: Mr. Barron.

Cross-examination.

By Mr. Barron:

Q. Mr. Tanner, would you say generally that your rates on cotton piece goods from Dallas, using Chicago as a representative point of destination, are on a basis lower than the C. F. A. scale?

A. I do not believe that is a correct statement, Mr. Barron. I have not checked that out.

Q. Well, at least your exhibit demonstrates that your rates are no higher or no lower, approximately, than the rates from Boston?

A. Are you talking now particularly with regard to Chicago only?

Q. To what?

A. To Chicago only.

Q. I am using Chicago.

A. (No answer.)

Q. Your exhibit shows it, does it not?

A. Yes.

Q. Now, I want to ask you this: if it is a fact that your rates on cotton piece goods are lower than the C. F. A. [fol. 2062] scale, do I understand your presentation here today is to advocate the establishment of the C. F. A. scale in the Southwest?

A. We advocate equality between the two territories, Mr. Barron.

Chairman Aitchison: Is there any C. F. A. scale on cotton piece goods?

Mr. Barron: When I say "C. F. A. scale," I am talking about a rate that would be for that distance; possibly there is no scale as such.

Chairman Aitchison: As a matter of fact, the whole cotton piece goods adjustment is before the Commission yet, is it not?

The Witness: It is, Mr. Chairman.

Mr. Barron: Yes. That does not take away the fact, however, that the rate in C. F. A. for 931 miles is higher than the rate from Dallas to Chicago.

The Witness: Of course, in that connection, Mr. Barron, you know that the Dallas-Chicago rate was made with relation to the Atlanta-Chicago rate.

Mr. Barron: They are all the same, Boston, Atlanta and Dallas.

The Witness: Yes.

Mr. Barron: They are all the same to Chicago.

The Witness: Yes.

By Mr. Barron:

Q. In effecting this equality, do you have in mind the [fol. 2063] disregarding of all conditions within the Southwest that are different from those in Official territory?

A. No. I do not ask this Commission to disregard any of the existing condition, Mr. Barron.

Q. You would not want to see the rates on raw materials in the Southwest increased just to effect a relationship or equality with the C. F. A., would you?

A. I am not advocating that.

Q. Nor would you want to see the rates on the Official products increased just to effect an equality, would you?

A. I am not advocating any general increases in rates at all on all commodities.

Q. And you are not advocating any general reductions, are you?

A. I am asking for equalization only, and I am not suggesting how that equalization should be brought about.

Q. You do recognize that there are conditions in the Southwest that would necessitate departure from that equality, so-called, do you not?

A. There may be certain conditions that would have to be taken into consideration. I do not think we should ever have an adjustment that freezes the entire rate structure in the United States.

Q. You would not want a rigid classification in the Southwest, would you?

[fol. 2064] A. I want a uniform classification in the Southwest.

Q. But you realize it must be departed from at times?

A. It must be departed from at times in all territories.

Mr. Barron: Thank you, sir.

Chairman Aitchison: Is there any further cross-examination?

Mr. McCollester: I have one or two questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Tanner, have you prepared your Exhibit No. 101 for the purpose of showing rates which you seek to have changed in this proceeding?

A. I offered those for the particular purpose that the Interstate Commerce Commission stated in substance that they would like to have first, the class rates before them; and second, they would like to have the rates on all other traffic before them.

Q. Well, now, with respect to the rates on sulphur, for example, of course there is no sulphur produced in Eastern Trunk Line territory, is there?

A. No, but during normal periods it is stored at the Atlantic Seaboard and then shipped later into the interior?

Q. But it all comes from Texas?

A. It does.

Q. May we understand by showing the sulphur rates here that you are not indicating that you want those rates [fol. 2065] changed in this proceeding?

A. I am not advocating any change in them.

Q. Is the same true with respect to the rates on cement?

A. The same answer.

Q. You also show rates on oranges. No oranges are produced in Eastern Tunk Line territory, are they?

A. That is correct.

Q. So far as the rates on that commodity are concerned, you are not complaining of any rate favoritism to an industry in Trunk Line territory as compared to one in Texas?

A. I am not.

Mr. McCollester: That is all. May it please the Commission, just to keep the record straight, from our standpoint, I move to strike the portions of Exhibit No. 101 which contain rates or a showing of rates that are not in issue here on sulphur, cement, and I believe cotton piece goods also cannot be considered here. Whether the rates on oranges are class rates, I do not know.

The Witness: They are classified in the classification.

Chairman Aitchison: The motion is denied. Are there any other questions of this witness? (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Cammack: Mr. Byars.

[fol. 2066] Chairman Aitchison: Raise your right hand and be sworn.

ED. P. BYARS was sworn and testified as follows:

Direct examination.

By Mr. Cammack:

Q. Will you state your full name and address for the record, please, Mr. Byars.

A. My name is Ed P. Byars, office address 115 East 9th Street, Fort Worth, Texas.

Q. You have prepared at the request of the Southwestern Steering Committee and the Attorney General, an exhibit?

A. Yes.

Mr. Cammack: Mr. Chairman, we ask that this be marked for identification as the next exhibit.

Chairman Aitchison: It may be marked for identification as Exhibit No. 102.

(Exhibit No. 102, Witness Byars, marked for identification.)

Mr. Cammack: I might say that this exhibit is divided into four sections, containing 9 pages.

By Mr. Cammack:

Q. What position do you hold, Mr. Byars?

A. I am traffic manager of the Fort Worth Freight Bureau, the Fort Worth Chamber of Commerce, the Texas Cottonseed Crushers Association, and the Southwestern Peanut Shellers Association.

Q. Are you appearing for any of those parties in this [fol. 2067] proceeding?

A. Yes. I am appearing in this proceeding for the Attorney General of Texas and also for those I named; and also for the West Texas Chamber of Commerce and the Freight Rate Equality Federation, representing 132 counties in western Texas, and having 185 affiliated towns and cities with some 5,000 individuals, farmers, and other business members, including retail merchants, and commercial and civic organizations.

Q. Please proceed with your statement, Mr. Byars.

A. My experience in the handling of traffic matters extends over a period of more than thirty years. At the request of the Attorney General of Texas and the Southwestern Steering Committee, I have prepared an exhibit showing the carload commodity rates on five commodities or groups of commodities, namely: one, gas black, known as carbon black; two, butter, eggs and dressed poultry; three, oil well supplies; four, cottonseed and its products; and five, shelled peanuts.

This exhibit has been offered for identification as my Exhibit No. 102. The cover page, which is page 1, shows the contents of the exhibit with the number of page containing the rates on each of these commodities. The tariff authorities for the rates, routes, and distances are shown on each page of the exhibit. None of the rates shown include the Ex Parte 148 increases.

Page 2 shows the short-line distances and the rates on [fol. 2068] gas black from Amarillo, Texas, and Monroe, Louisiana, which are representative producing and shipping points in the Southwestern Region, to representative consuming points in Western Trunk Line, C. F. A. and Trunk Line territories and to the Missouri and Mississippi River crossings, compared with the rates for the same distances within the C. F. A. and Trunk Line territories.

It will be noted that from the Southwestern Region to these territories there are two rates, one applied in connection with a minimum weight of 40,000 pounds for cars of 40 feet and six inches or less in length, and another and higher rate applied in connection with a minimum weight of 25,440 pounds for cars of the same length. The rates shown as applying within C. F. A. territory, which are the straight 5th class rates, under item 4470 Consolidated Freight Classification No. 15, effective on March 17, 1942, are applicable in connection with a minimum weight of 40,000 pounds for any size car. The heading of the 4th column of figures on the exhibit should be corrected by adding in heading, "Minimum Weight 40,000 pounds". The minimum weights from the Southwest into C. F. A. territory are graduated upward for cars of greater length than 40 feet 6 inches. The scale A rates grade up from 25,440 pounds for cars 40 feet 6 inches in length to 48,000 pounds for cars over 50 feet and 6 inches in length; and the scale B rates carry minimum

[fol. 2069] weights grading up from 40,000 pounds to 70,000 pounds for cars over 50 feet and 6 inches in length.

These minimum weights on shipments from the Southwest are carried in agent Peel's I. C. C. 3458. The class scales of rates in C. F. A. territory are carried in C. F. A. tariff 484 Jones' I. C. C. 2448. When a Southwestern shipper ships 40,000 pounds of gas black into C. F. A. territory, loaded in a car over 50 feet 6 inches in length, he is required to pay the rate on 70,000 pounds although he ships only 40,000 pounds, whereas the C. F. A. shipper pays his rate on only 40,000 pounds when he ships that weight in a car of over 50 feet 6 inches in length.

One or two illustrations will suffice to show the differences in the rates, mile for mile, from the Southwest to C. F. A. and Trunk Line territories and within these territories. If we ship a minimum car of 25,440 pounds from Amarillo to Cincinnati, we must pay $1.06 per hundred pounds, the distance being 1143 miles, whereas the C. F. A. shipper would pay for that distance within C. F. A. territory only 69 cents, a difference of 37 cents per hundred pounds. If we ship a minimum car of 40,000 to Cincinnati, we pay 93 cents per hundred pounds and the C. F. A. shipper pays for the same distance on the same minimum weight 69 cents, a difference in favor of the C. F. A. shipper of 24 cents per hundred pounds, or $96 per car.

[fol. 2070] If we use Philadelphia as a representative shipping point in the Pennsylvania oil fields producing and shipping gas black to St. Louis, a distance of 981 miles, we find that the Pennsylvania shipper pays a rate to St. Louis of 64 cents per hundred pounds whereas from Amarillo to Chicago, a distance of 978 miles, the rate is 85 cents per hundred pounds under Scale B minimum weight 40,000 pounds, a difference of 21 cents per hundred pounds. If Amarillo and Philadelphia both ship to Chicago on the minimum weight of 40,000 pounds, the rate from Amarillo is 85 cents and the rate from Philadelphia to Chicago is 57 cents per hundred pounds, a difference of 28 cents per hundred pounds, or $112 per car for a distance of only 167 miles in favor of Philadelphia. The distance from Philadelphia to Chicago is 811 miles, and the 5th class rate is 57 cents per 100 pounds. This distance is not shown on the exhibit but it is the distance by the Pennsylvania Railroad, Valparaiso, Wellsboro on the Grand Trunk Railway, B. & O., Lodi, W. & L. E., Pittsburgh Junction, P. & W. Va., Pittsburgh,

Pennsylvania Railroad, Belmont, and Reading Co., taken from Montfort's Short-line Routes.

Page 3 is a comparison of the mileage scales of rates applying within the Southwest and within C. F. A. territory on butter, eggs and dressed poultry. The minimum weight within the Southwestern territory and within C. F. A. [fol. 2071] territory is 20,000 pounds per car. This exhibit reflects the differences in the class rates within the two territories. Within the Southwest, Column 35 or 35 per cent of first class applies, and within C. F. A. territory the column 50-K scale applies. Column 50-K is class 50 or 50 per cent of first class in effect March 27, 1938, plus the 5 per cent increase which was allowed in Ex Parte 123. This page shows that although the rating in C. F. A. territory is considerably higher than the rating within the Southwest, there is very little difference in the two scales up to 100 miles, but beyond that distance the actual rates in C. F. A. territory are lower than those in the Southwest for the same distances. The C. F. A. actual rates range lower than the Southwestern rates by 5 cents per hundred pounds at 200 miles, to 18 cents lower at 1000 miles.

Page 4 shows specific rates on butter, eggs and dressed poultry from the Southwest, to C. F. A. and Trunk Line points compared with the rates within the latter territories, the minimum weight being 20,000 pounds in both origin and destination territories. From Ft. Smith, Arkansas, to Chicago, the rate is 9 cents per hundred pounds lower than for the same distance in C. F. A. territory, but from Ft. Smith to Indianapolis the rate is 28 cents higher than for the same haul within C. F. A. From Ft. Smith to New York the rate is 32 cents higher than for the same haul within C. F. A. [fol. 2072] territory. Similar comparisons are shown with the rates from Oklahoma City, Fort Worth, Texas, and Shreveport, Louisiana. The rate from Fort Worth, Texas, to Baltimore, is 34 cents higher than the rate for the same distance within C. F. A. territory.

The following number of cars of dressed poultry, eggs and butter are shipped each year by Fort Worth Poultry and Egg Company from Fort Worth: to St. Louis, 35 cars; to Chicago, 60 cars; to Cleveland, 15 cars; to Philadelphia, 52 cars; to New York, 112 cars; to Boston, 70 cars; and to all other points in Official Classification territory, 100 cars, the total being 444 cars:

Page 5 is a comparison of the mileage scale rates within the Southwest with those within C. F. A. territory on oil well supplies. The minimum weight is 36,000 pounds in both territories. Here we have a higher percentage of first class in the Southwest than in C. F. A. territory, 42½ per cent in the Southwest and 35 per cent in C. F. A. territory. The rate at 100 miles is 16 cents per hundredweight higher in the Southwest than in C. F. A. territory. At 200 miles, it is 25 cents higher, at 800 miles, 56 cents higher, and at 1000 miles it is 64 cents higher in the Southwest than in C. F. A. territory. Oil well supplies are manufactured and moved from points in the Southwest. We have used Fort Worth and Lufkin, Texas, and Tulsa, Oklahoma, as representative southwestern origin points on page 6. On this page, we show the [fol. 2073] rates from these Southwestern points; also from Parkersburg, West Virginia, as a representative manufacturing and shipping point in C. F. A. territory, to the points shown in the first column on the exhibit which points are representative of the different oil fields. The rate from Fort Worth to Centralia, Illinois, is 99 cents per hundredweight, which is 45 cents per hundredweight higher than the rate would be if the C. F. A. scale, column 35, were applied. On an average car of 40,000 pounds, this is a difference of $180. The rate from Lufkin, Texas, to Centralia, Illinois, is also 45 cents per hundredweight higher than the C. F. A. scale for the same distance. From Tulsa, Oklahoma, to New Iberia, Louisiana, the rate is 47 cents per hundredweight higher than would apply if the C. F. A. scale were applicable. On the extreme right, we show the rates from Parkersburg, West Virginia, to Centralia, Illinois, and also to these Southwestern oil fields; and we also show what the rates would be from Parkersburg to these Southwestern points if the C. F. A. scale applied through.

Page 7 shows the mileage scales of rates on cottonseed, cottonseed cake and meal, cottonseed hulls, cottonseed oil and cotton linters, which apply within Southwestern territory. The rates in the first scale are the rates prescribed by the Interstate Commerce Commission, in Docket 17000 Part 8, 188 I. C. C. 605 for application on both cottonseed and on cottonseed cake and meal. The basis prescribed for the [fol. 2074] Southwest was 18½ per cent of first class, and in the same case the Commisson prescribed 22½ per cent of first class for application within C. F. A. territory, designated as the Northeastern region in that case. The present

rates within that territory on Cottonseed and cottonseed cake and meal also soya bean cake and meal are on column 22½-K, which means class 22½ in effect March 27th, 1938, plus the 5 per cent increase allowed in Ex Parte 123. The actual rates now applicable within C. F. A. territory are not shown on this exhibit but at 25 miles the rate in that territory is 8 cents per hundredweight; at 50 miles, 11 cents; at 100 miles, 14 cents; at 150 miles, 16 cents; at 200 miles, 17 cents; at 300 miles, 21 cents; at 400 miles, 23 cents; at 500 miles, 26 cents; at 600 miles, 29 cents; at 700 miles, 32 cents; at 800 miles, 35 cents; at 900 miles, 37 cents; and at 1000 miles, 39 cents. The rates shown in the second column are the rates now applicable within Southwestern territory which were made necessary on account of truck competition. It will be noted that while those rates are lower for the shorter distances than the standard scale, they are higher than the rates within C. F. A. territory from 600 miles to 1000 miles. At 1000 miles, the rates now applying wthin C. F. A. territory are 7 cents per hundredweight lower than the so-called truck compelled scale in the Southwest.

[fol. 2075] On cottonseed oil, the rates within the Southwest are based on 24½ per cent of first class in the Southwest and 32½-J within C. F. A. territory. Column 32½-J in C. F. A. territory means the column 32½ rates prior to the increase on March 28th, 1938, in Ex Parte 123. The Southwestern rates were increased 5 per cent under Ex Parte 123 but C. F. A. rates were not. The rates on cottonseed oil and other vegetable oils in C. F. A. territory are not shown on this exhibit but they are as follows: for 50 miles, 14 cents; 100 miles, 18 cents; 150 miles, 21 cents; 200 miles, 24 cents; 300 miles, 28 cents; 400 miles, 32 cents; 500 miles, 36 cents; 600 miles, 40 cents; 700 miles, 44 cents; 800 miles, 47 cents; 900 miles, 50 cents; and 1000 miles, 54 cents. At 1000 miles, the rate in C. F. A. territory is 14 cents per hundredweight lower than the rates of the same distance in the Southwest.

In the last column of the exhibit, the rates on cotton linters minimum 36,000 pounds are shown. The minimum weight, however, of 45,000 pounds is now applicable on cotton linters in cars over 41 feet in length. This minimum applies in connection with the mileage rates shown in this last column. Within C. F. A. territory, column 27½-L, applies in connection with a minimum weight of 40,000 pounds

subject to Rule 34. The rates in C. F. A. territory are: 13 cents for 50 miles; 17 cents for 100 miles; 22 cents for [fol. 2076] 200 miles; 26 cents for 300 miles; 30 cents for 400 miles; 34 cents for 500 miles; 38 cents for 600 miles; 41 cents for 700 miles; 44 cents for 800 miles; 47 cents for 900 miles; and 50 cents for 1000 miles, the later rate being 13 cents below the rate for 1000 miles in Southwestern territory. Column 27½-L in C. F. A. territories means class 27½ in effect March 28, 1938, with class 30 in effect March 27th, 1938, as minimum.

Page 8 shows specific rates on cottonseed and products within Southwestern territory.

Page 9 shows the rates on shelled peanuts from representative Texas and Oklahoma producing and shipping points to consuming points Chicago, St. Louis, and East. These rates are compared with the rates for the same distance within C. F. A. territory where the straight fourth class rate minimum 24,000 pounds applies on shipments in cars 40 feet and 7 inchs and less in length as provided in Consolidated Freight Classification No. 15, the rate being carried in C. F. A. Tariff 484 Jones' I. C. C. 2448. The minimum for a 50-foot car in that territory is 38,880 pounds under Rule 34 which applies.

Mr. Cammack: If the Chairman please, we offer in evidence Exhibit No. 102.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 102? (No response.) Without objection, it is received.

[fol. 2077] (Exhibit No. 102, Witness Byars, received in evidence.)

By Mr. Cammack:

Q. Mr. Byars, you have heard the testimony of some witnesses here concerning the difficulty in getting the concurrence of Official lines from Southwestern territory.

A. Yes.

Q. Have you had any experience along that line?

A. Yes, I have. I happen to be also traffic manager of the Fort Worth Grain & Cotton Exchange. When the ships went out of the Gulf, we undertook to secure a rate on flour to New York and North Atlantic Seaboard territory, which is territory involved in Docket 28090 still pending

before the Commission, and we asked for a basis to New York in order to hold the five to seven thousand carloads of business we had there. We asked the Southwestern carriers for a basis which would give them their full local to Memphis and east of Memphis we asked for a proporational rate that would be higher by 3 cents per hundred pounds than the proportional rate aplying from St. Louis on traffic originating in the Southwest. The Southwestern lines agreed to it and we had to get the concurrence of the Southern lines out of Memphis. They readily agreed to it. When it got to the Potomac, or as far as Washington, that is as far as it ever got. The Trunk Lines put their big number 11 foot right down on it, and stopped it.

[fol. 2078] There was another case just recently. We do not know what is going to happen to it. It has gotten that far. It has to do with the rate on peanut flour, which is a new industry established at Fort Worth. We have asked the carriers and the carriers in all the groups in the United States have adopted the basis of the soy bean flour rates on this peanut flour because it is used for the same purposes, the price is the same, and the transportation characteristics are the same. The official lines supply the soy bean flour rates in that territory—I mean, the Trunk Lines—and we have got the rates now applying everywhere, except that we do not know what has happened to it. The last we heard of it was that it was up to the Trunk Lines and that they were waiting to get the concurrence of the Western Trunk Lines. That sounded awfully fishy because we know the Western Trunk Lines approved the proposition because we put it in in their territory, so we do not know what has happened to that.

There was one other remark I wanted to make in connection with my exhibit. On the last page of my exhibit I show the rates on peanuts. In several cases shown on this page 9 we find rates approximately the same. In some places the rates in C. F. A. territory are higher than the rate for the same distance from the Southwest to C. F. A. territory. Now, then, the basis from the Southewest to C. F. A. is a specific commodity rate made on a group basis, groups [fol. 2079] of origins, similar to and in line with the rates made from Georgia into C. F. A. territory, so we have a contrast here between a commodity rate that we have within the Southwest and from the Southwest to C. F. A. compared with a straight class rate in C. F. A.

[fol. 2080] Now, then, the class basis in CFA territory is 4 cents on peanuts. That is for carload traffic. That is because they do not raise any peanuts up there and nobody cares what the rate is, so they apply a less than carload class rate to an important commodity like peanuts in carloads. If anybody wants to know about these differences, that is the reason for them. That is all.

Mr. Cammack: You may cross-examine.

Chairman Aitchison: Mr. Barron.

Cross-examination,

By Mr. Barron:

Q. Mr. Byars, you show rates on carbon black on page 2 of your exhibit 102?

A. Yes.

Q. Is this submitted to show that in your judgment those rates are too high?

A. No. I just show the rates.

Q. That is just like that of the others; you are just showing the rates?

A. That is right, because the Commission said they wanted them.

Q. Now, do you advocate the fixation of a classification or a basis of rates throughout the territory involved in these proceedings, that fixation to be precise rates?

A. No.

Q. Do you agree with Mr. Maurer that because of his [fol. 2081] desire for equality, there should be a fixation by the Commission of definite and certain classifications, and an elimination of all these exceptions to the classification?

A. Mr. Barron, I think the Commission should prescribe the classification. When I answered your question I intended to convey the thought that I would not have the classification, and just say to you, "Here is your classification. That is the maximum and minimum. Here is your uniform scale of rates and they are going to be both maximum and minimum." I do not think that that would work. I do not think that would be proper.

Q. You realize the necessity, do you not, for certain consideration on different commodities in Southwestern territory?

A. Yes. I think the illustration I gave on peanuts is an illustration of that.

Q. In order to do business we must have commodity rates, and we must have exceptions to the classification, must we not?

A. I think we can have a uniform classification. I would not care if we had 20 classes, or 30, if you wanted to grade it out finally and have everything rated. I think it would be advisable to have classification ratings uniform, whatever they are.

Q. Do I gather from that, that you advocate all rates should be made a percentage of the first class rates?

A. No, I do not. There are just bound to be some exceptions, Mr. Barron.

[fol. 2082]

Q. Would you advocate that commodity rates should not in any case be related to first class rates?

A. Well, I never did think they should, but I had to take it, and kind of get used to it, but I did not like it.

Mr. Barron: Thank you.

Chairman Aitchison: Are there any other questions on cross-examination? (No response.) Do you have anything further, Mr. Cammack?

Mr. Cammack: One more question.

Redirect examination.

By Mr. Cammack:

Q. When you answered the question concerning the scale, you did not intend to convey the idea that you wanted a maximum and minimum fixed scale, did you?

A. No, indeed. I do not want it to be a maximum and minimum.

Q. Do you favor a maximum scale?

A. A maximum scale.

Mr. Cammack: That is all.

Chairman Aitchison: Do you offer your exhibit?

Mr. Cammack: I offer exhibit No. 102 in evidence, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit No. 102? (No response.) Without objection it is received.

(Exhibit No. 102, Witness Byars, received in evidence.)

[fol. 2083] Chairman Aitchison: You may stand aside, Mr. Byars.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Cammack: Mr. Scrivner.

Chairman Aitchison: Raise your right hand and be sworn.

A. J. SCRIVER was sworn and testified as follows:

Direct examination.

By Mr. Cammack:

Q. Will you state your full name for the record, please, Mr. Scrivner?

A. A. J. Scrivner.

Q. You reside in Austin, Texas?

A. Yes.

Q. What official position do you hold?

A. I am Assis-ant to the Director of the Rate Division of the Railroad Commission of Texas.

Q. How long have you been engaged in traffic work, Mr. Scrivner?

A. For more than thirty years.

Q. At the request of the Steering Committee and the direction of the Railroad Commission of Texas, have you prepared o. had prepared under your direction an exhibit for introduction in this case?

A. Yes, sir.

Mr. Cammack: If the Chairman please, we ask that this [fol. 2084] be marked for identification as exhibit No. 103.

Chairman Aitchison: It may be so marked.

(Exhibit No. 103, Witness Scrivner, marked for identification.)

By Mr. Cammack:

Q. Is the material set forth in exhibit 103 true and correct to the best of your knowledge and belief, Mr. Scrivner?

A. Yes.

Q. Will you please proceed to explain this exhibit in your own way?

A. The exhibit shows classification exception ratings applicable in Central Freight Association territory——

Mr. Barron: We cannot hear the witness, Mr. Chairman.

Chairman Aitchison: Speak up so everyone can hear you, Mr. Scrivner. Get closer to the microphone.

The Witness: This exhibit shows the classification exception ratings applicable in Central Freight Association territory published in B. T. Jones freight tariff 130-B I. C. C. No. 3684 and similar information on Texas intrastate traffic which is published in Ira D. Dodge's tariff No. 60-E, R. C. T. No. 204, which is not filed with the Interstate Commerce Commission. The purpose of the exhibit is to show the very large number of commodities upon which it has been necessary to deviate from classification ratings in both territories and is not intended to attack or complain [fol. 2085] here against the ratings in either territory.

The ratings shown on the exhibit apply on carload traffic except as shown otherwise as less than carload or any quantity. The commodities shown on the exhibit are not inclusive of all commodities that are contained in the items referred to because there are just simply too many to make that character of exhibit. For instance, on page 1 you have drugs, medicines and chemicals under Item 4320 of Jones' tariff 130-B. There are some several hundred different items included in that commodity description.

The cover page of the exhibit explains its contents and need not be repeated. I do desire to direct attention to the fact that in Central Freight Association territory many commodities are subject to classification exception ratings which in Texas are subject to the classification ratings proper. This is shown on pages 5 to 9 inclusive. Conversely, pages 10 and 11 show quite a number of commodities which in Texas are subject to classification exception ratings, or to a commodity mileage scale, and which are not covered, or not published in Jones' tariff 130-B as subject to classification exception ratings. They might move on specific commodity tariffs in Central Freight Association territory, but I am not certain about that.

The classification exceptions or commodity rates have been established for general application on practically all [fol. 2086] carload traffic in Texas, but it has been necessary to go much further than that, and a very large number of specific point to point rates which are even lower than the

regular basis have been prescribed. Those are shown on page 12 of the exhibit. The destinations and origins are not shown, but it is just simply a statement of the commodities that move on rates even lower than the exceptions or the commodity mileage basis. Various ratings shown under Texas, many of them, are suffixed with letters. They do not have a direct percentage relationship to the first class basis, and for that reason I have shown those rates to representative destinations on page 13 of the exhibit. In some instances I have shown under the ratings in Texas just the letter "S". That means that they are subject to a commodity mileage scale of rates and are not related to the first class rates.

Based upon the records of the Railroad Commission of Texas and upon my general knowledge of the movement of traffic in Texas, it is my opinion that perhaps less than 10 per cent—I might say 5 percent—of carload traffic moves on class rates subject to the classification ratings; and as to less than carload traffic, also based upon the records of the Commission, there is perhaps less than 50 per cent of the less than carload traffic that moves on class rates and classification ratings.

Com. Alldredge: I am sorry, but I did not hear your statement.

[fol. 2087] By Com. Alldredge:

Q. What percentage did you say moves on rates subject to the classification?

A. My statement was that my belief is less than 10 per cent of the carload traffic moves on the class rates and at the classification ratings.

Mr. Porter: Is that intrastate?

The Witness: Yes, sir.

Com. Alldredge: Thank you.

By Mr. Cammack:

Q. With respect to what you have said about the intrastate exceptions to the classification, what do you know about that with reference to the Southwest territory generally?

A. Generally speaking, in Texas we have the same classification exceptions as apply throughout the Southwestern

territory published in Peel's tariff 173-0, I believe. I do not have the I. C. C. reference to it.

Com. Alldredge: May I ask another question about this classification proposition.

By Com. Alldredge:

Q. Is it your conclusion that the function of the primary classification in the Southwest has broken down?

A. Yes. That is true, Mr. Commissioner. We do not have very much use for the classification or the class rates as such. That is true in Texas and I think it is generally [fol. 2088] true throughout the Southwest.

By Mr. Cammack:

Q. Have you anything further to add to your testimony?

A. No. That concludes my direct testimony.

Mr. Cammack: If the Chairman please, we offer in evidence exhibit No. 103.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit 103? (No response.) Without objection it is received.

(Exhibit No. 103, Witness Scrivner, received in evidence.)

Mr. Cammack: The witness is tendered for cross-examination.

Chairman Aitchison: Mr. Barron.

Cross-examination.

By Mr. Barron:

Q. Mr. Scrivner, it has been suggested on the record that in the Southwest we should discontinue volume rates. Do you concur in that suggestion?

A. Are you speaking of the railroads?

Q. Yes, sir. It was not the railroads' suggestion, however.

A. I understand.

Q. Mr. Maurer suggested that we should get rid of the volume rates. Do you concur in that?

A. No. I do not believe I do, Mr. Barron, in general.

Q. You recognize, do you not, as representing the Rail- [fol. 2089] road Commission of Texas that we have situa-

tions in the Southwest that necessitate individual and distinct considerations, do you not?

A. Yes. That is true.

Q. Would you like to see established by the Interstate Commerce Commission for the sake of uniformity a rigid classification and a rigid class scale of rates for application throughout this Western territory?

A. Do you mean for application on all traffic?

Q. Yes.

A. Or related to all traffic?

Q. To all traffic that might be involved in this proceeding.

A. I do not believe I could answer that right now without giving it considerable study.

Q. You do realize, do you not, that it would be detrimental to the Southwestern railroads and to Southwestern interests as a whole if any scale of rates would not be flexible so it could be changed as conditions warranted?

A. That has been our experience for years past.

Q. That has been the practice of your Commission in the state of Texas, has it not?

A. Yes. Many, many of the commodity scales that have been established, in many, many sections have been established because you just cannot possibly apply the straight classification ratings and class rates.

[fol. 2090] Chairman Aitchison: I do not recall anybody in this proceeding so far who has suggested the establishment of a classification and class scale that could not be changed.

Mr. Barron: They want equality, and I do not know what "equality" means.

Chairman Aitchison: We can have equality with conditions as they exist today. If conditions tomorrow should change in one section with respect to another so that equality would no longer comply with the law, it would be the duty of the carriers and the Commission alike to change it.

Mr. Barron: That may be perfectly true, Mr. Chairman. I know that the Commission would not attempt to do anything that would be futile, but in my judgment the fixation of a classification or class scale from the standpoint of equality would be futile, because it would not last 24 hours. That is my thought about it.

Chairman Aitchison: At least we would have something to start with, as a base, and the burden is on the carriers

under the new Act to justify the reasonableness of any change one way or the other.

By Mr. Barron:

Q. You would not want the Interstate Commerce Commission to prescribe minimum and maximum rates in this proceeding, would you?

A. No, sir.

Mr. Barron: Thank you. That is all.

[fol. 2091] Mr. J. R. Bell: I have one or two questions.

Chairman Aitchison: I have forgotten who you are appearing for.

Mr. J. R. Bell: Pardon me?

Chairman Aitchison: I asked you who you are appearing for.

Mr. J. R. Bell: In one capacity, for all of the railroads in the United States, Class 1, and in another capacity, the Western District. My comments right now are with respect to the Western District.

Chairman Aitchison: Proceed.

By Mr. J. R. Bell:

Q. In response to a question asked from the bench you said that something had broken down. I did not get exactly what it was. Was it the class rates and classification ratings, or what function was it that you said had broken down?

A. The Commissioner, as I understood the question, asked me if the classification as such had not been broken down and my answer was that it has been, in Texas.

Q. He said "the function," as I understood the question, the function of the classification. Was that the question to which you referred?

A. Yes, sir.

Q. Now, in what sense did you mean "function"? What did you conceive, as applied to that question, to be [fol. 2092] the function of the classification?

A. To be used in arriving at rates.

Q. Do I understand that you are opposed to all exceptions to the classification ratings?

A. No, sir. I definitely stated in my testimony that we are not attacking the exceptions ratings or complaining

about them. As a matter of fact, they have been very necessary.

Q. Is it not your opinion that the true function of the classification is more or less theoretical than a practical matter?

A. That is correct.

Com. Alldredge: Then why do we need a classification, if it is going to be theoretical?

The Witness: Except to move some of your less than carload traffic, you do not need it very much, Mr. Commissioner.

Mr. J. R. Bell: May I have that last answer read?

Chairman Aitchison: Yes.

(Record read.)

Mr. J. R. Bell: That is all.

Chairman Aitchison: Are there any other questions on cross-examination?

Mr. A. L. Reed: I have a few questions, Mr. Chairman,

Chairman Aitchison: Mr. A. L. Reed.

Mr. A. L. Reed: Mr. Scrivner, I would like to ask a few questions concerning exhibit No. 103 in connection with [fol. 2093] the Southwestern motor carriers.

By Mr. A. L. Reed:

Q. Were you with the Railroad Commission of Texas at the time the so-called grocery mixture was established?

A. No. I was not at that time, Mr. Reed, but participated in the hearings on the adjustment, and I am familiar with it.

Q. You are familiar with the fact that it was made on application of the Texas railroads and protested by common carrier motor trucks, are you not?

A. That is true.

Q. You were with the Commission when the hardware mixture was established?

A. Yes, sir.

Q. That was established on application of the railroads and protested by the motor carriers to the extent of undertaking to enjoin it, I believe, is that not true?

A. That is correct.

Q. The two mixtures I have just described appear on page 10 of your exhibit No. 103, merely designated as

grocery store supplies and hardware supplies. I would like to ask you if it is not a fact that as between the two mixtures practically every known commodity moving in less than carload lots between points in Texas has been provided with less than carload ratings?

A. Well, I would not say practically all commodities. I [fol. 2094] will say this: There are many hundreds of commodities named in the two items.

Q. Well, for instance, one or the other of the two items will reduce some of the exceptions which appear at pages 1, 2 and 3 of your exhibit, such as binder twine, for instance, is that not true?

A. That is correct. They are lower in some instances than many of the exception ratings. As a matter of fact, that scale starts out at about column 45, I think, and goes up to about 200 miles and gradually works into third class at about 400 miles.

Q. The grocery mixture has a minimum, I believe, of 500 pounds per shipment?

A. That is right.

Q. Is that correct?

A. Yes, and the hardware mixture of 300 pounds.

Q. Does either one of the minimums per shipment really mean anything in view of the fact you may have split deliveries under both of them?

A. Under the grocery mixture adjustment as many as five consignees may be included in the shipment at the minimum of 500 pounds and for each additional 100 pounds added to the shipment another consignee may be added. As to the hardware mixture, I believe that applies to one consignee only.

Q. Is it not true that in connection with both of them [fol. 2095] the shipper at origin may direct the 300 pounds or 500 pounds to the delivering agency and have the carrier there split it up among any number of consignees at destination?

A. That was shown by you and a number of other witnesses for the Texas Commission some time ago. As I recall, as many as 50 deliveries are made on shipments of that type.

Q. Would you not conclude from those circumstances that both the grocery mixture and hardware mixture are

in fact less than carload rates without any minimum requirement of a practical nature?

A. Oh, yes.

Mr. A. L. Reed: Thank you. That is all.

Chairman Aitchison: Are there any other questions on cross-examination? (No response.) Have you anything further, Mr. Cammack?

Mr. Cammack: That is all.

Chairman Aitchison: You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Cammack: Mr. Frederick.

Chairman Aitchison: Raise your right hand and be sworn.

JOHN H. FREDERICK was sworn and testified as follows:

Direct examination.

By Mr. Cammack:

Q. Will you state your full name for the record, please, [fol. 2096] Mr. Frederick?

A. My name is John H. Frederick.

Q. You live in Austin, Texas?

A. I live in Austin, Texas, yes.

Q. What position do you have in Austin?

A. I am Professor of Transportation and Industry in the School of Business Administration of the University of Texas.

Q. Where were you employed prior to the time you came to Austin?

A. Prior to joining the faculty of the University of Texas I was, for 14 years, on the faculty of the Wharton School of Commerce and Finance of the University of Pennsylvania.

Q. State your educational background in the field of economics.

A. I hold the degrees of Bachelor of Science in Economics conferred in 1918, Master of Arts, conferred in 1925 and Doctor of Philosophy conferred in 1927.

Q. Have you been the author of any books published in the field of economics, marketing and transportation?

A. I am the author of six books dealing with various aspects of transportation and marketing. These are: Federal Regulation of Railway Securities, 1927; The Development of American Commerce, published in 1932; Industrial Marketing, published in 1934; Agricultural Marketing, published in 1937; Public Warehousing, published in 1940; and Commercial Air Transportation, published in 1942. I am also the co-author of Regulation of [fol. 2097] Railroad Finance, published in 1930.

Q. Have you had any articles published in trade journals and such as that?

A. I am also the author of several hundred articles on various aspects of transportation and marketing which have appeared in trade and professional journals since 1929.

Q. What, if any, boards, editorial boards, have you served on?

A. I am now a member of the editorial board of the Journal of Marketing. For a year I was managing editor of Electrical Wholesaling, a publication of the McGraw Hill Publishing Company.

Q. Have you served as consultant for any corporations, or government bureaus in the field of marketing and transportation?

A. Since 1929 I have served in that capacity a number of times. For nearly two years I was Chief of the Distribution of Manufactures Sales, Division of the Census of Business.

Q. Have you had prepared under your direction an exhibit to be introduced in this proceeding?

A. I have.

Q. That exhibit consists of 14 pages and is in two sections?

A. That is correct.

Mr. Cammack: We ask to have this marked for identification as exhibit No. 104, Mr. Chairman.

Chairman Aitchison: It may be so marked.

[fol. 2098] (Exhibit No. 104, Witness Frederick, marked for identification.)

By Mr. Cammack:

Q. Dr. Frederick, will you proceed to explain the preparation of this exhibit and the material and data contained therein?

A. As the content page, the first page, indicates this exhibit consists of two sections, section A being industry studies, a comparison of actual freight charges paid on inbound and outbound shipments of five concerns in Texas with what would have been paid had the Official territory level of rates applied over the same distances.

By Chairman Aitchison:

Q. How did you get the data with respect to the actual payments which were made by these concerns?

A. Mr. Chairman, we visited all of these concerns and had access to all freight bills for inbound and outbound shipments for the period under study. For each concern, we examined those and tabulated the following information: The destination of the shipment; the gross weight of the shipment; and the freight rate paid. After we had taken this off the freight bills, we then took the charges shown on the freight bills actually paid—that is, the charges actually paid—and determined the rate which would have applied from the factory to each destination for outgoing shipments and to the factory from point of origin for [fol. 2099] incoming shipments had those distances been entirely within Official territory.

By Com. Alldredge:

Q. That means that you took into account then, the rates on the raw materials?

A. Yes.

Q. As well as the rates on finished products?

A. Yes, all outgoing shipments and all inbound shipments. From the total freight actually paid we subtracted the amount that would have been paid had the Official rate level prevailed. The difference is what we term the existing economic burden, which, in each case, is the amount shown in column 5 on each of the tables covering the five industry studies.

By Mr. Cammack:

Q. Dr. Frederick, with reference to inbound and outbound shipments, those are separated in the exhibit as to each industry?

A. Yes, they are.

Q. Is that correct?

A. Yes.

Q. And also showing territorial origin or destination?

A. That is correct, as shown in the various tables.

By Com. Splawn:

Q. Dr. Frederick, what was the total increase in burden that you computed?

A. It varied with the different concerns, Mr. Commissioner. For example, with respect to the first one which is the Walker's Austex Chili Company of Austin, Texas which ships canned foods, the grand total of column 5 which we [fol. 2100] considered to be the difference between the actual and Official territory rates—that is, the actual rate paid and what would have been paid had the Official territory rate been applied—amounted to $14,916, or a 33 per cent differential between the two areas. If we look at the next exhibit——

Mr. Cammack: Pardon me, Dr. Frederick.

The Witness: Yes.

Mr. Cammack: I believe the Commissioner has another question.

The Witness: Pardon me.

By Com. Splawn:

Q. Have you added up or made any estimate of the approximate total for the state?

A. No, sir. We were only concerned at the moment with these five industries, because we could not get the information from all the industries in the state.

Q. I believe you mentioned in discussing your qualifications that some years ago you were the co-author with Professor Lloyd Wilson or others of some study of railroad finance?

A. Professor Wilson was not concerned in that, sir. The other authors were Professor Henning of the University of

Pennsylvania and Professor Hites who was then a member of the faculty.

Q. That was a study of railroad finance?

A. Yes.

Q. Have you made a study of the financial condition of [fol. 2101] the railroads of Texas?

A. No, sir.

Q. And their requirements, in the light of this difference between the rates in Official territory and the going rates in Texas?

A. No.

Q. You have made no such study?

A. No, sir.

Q. Are you able to give us any suggestion at all as to whether or not considering the financial requirements of the railroads in Texas, this addition is necessary?

A. I can only give you my own personal opinion, sir, and that is that it is not necessary.

Q. Upon what do you base that opinion?

A. Because there is not a sufficient difference in transportation conditions existing between the Southwestern area and Official territory to warrant such a wide difference in the cost of freight transportation to the industries in the Southwest.

Com. Alldredge: May I ask you a question right there. I want to see if I interpret your figures correctly.

By Com. Alldredge:

Q. In the case of the Walker's Austex Chili Company, do I understand that the total burden of the difference in transportation charges to that company was equivalent to 7.31 per cent of the value of the capitalization?

[fol. 2102] A. Correct. That is correct.

Com. Alldredge: I see.

The Witness: Shall I continue with what I was saying?

By Mr. McCollester:

Q. Right there, when you say "value of capitalization", is that par or market or what?

A. That is the capital stock and surplus.

By Com. Alldredge:

Q. As shown on the books?

A. As shown on the books of the company, yes.

Mr. McCollester: Thank you.

The Witness: Shall I continue?

Mr. Cammack: Yes.

The Witness: It will be noted from this exhibit, section A of exhibit 104, that both the outbound and inbound shipments require these manufacturers to pay more freight than if they had been able to move this tonnage on the Official rate basis. In order to show how important to an individual concern even a relatively small discrimination in freight rates may be, we have expressed the economic burden which is the grand total in column 5 of each exhibit as a percentage in each case of the net scales, cost of goods sold, capital invested, and wages paid labor. These data are shown following the summary table in each case.

Rate inequalities inhibit Southwestern industries. The burden of discrimination is very important to individual [fol. 2103] enterprises. Pages 2, 3, 4, 5, 6 and 7 show this for actual company operations. On both outbound and inbound shipments, producers in the Southwest of which these are examples, pay more freight than if they had been able to move their tonnage on the Official rate basis. This difference varies with the commodities shipped, but the total inbound and outbound traffic in one case runs 64 per cent as shown on page 5. Discriminations of this nature are very important to individual concerns. They amount to a substantial economic burden at times. This burden is shown, as I have mentioned, as column 5 in each of these tables.

For example, had the Walker's Austex Chili Company, pages 2 and 3, moved its outbound and inbound traffic on Official territory rates, it would have spent $14,619 less for freight in 1941. This saving amounts to 2.12 per cent of net sales in 1941 and also is equivalent to 7.31 per cent of the capital stock as just mentioned.

The importance of inbound class rate discriminations on operations of Southwestern concerns is illustrated by the Superior Products Company example on page 5. Their inbound tonnage cost them 73 per cent more for freight than it would have, had it moved under Official territory

rates. Now, the payment of inbound freight is particularly important to these people. It is a very important part of this company's operating cost. The total freight they paid [fol. 2104] accounted for 29.09 per cent of the cost of goods sold. The economic disadvantage on inbound and outbound shipments of this company would have been of considerable significance if they had been allowed to use that amount for something else. It amounts, for example, to 7.12 per cent of net sales. It amounts to 300.48 per cent of wages paid labor.

By Mr. Cammack:

Q. Dr. Frederick, at that point, when you speak of 300.48 per cent of wages paid labor, you are there referring to the total charges?

A. The total freight actually paid by this company on inbound and outbound shipments.

Q. Proceed.

A. Now, on page 6 we have the example of the Sche-Rose Manufacturing Company of Dallas, Texas, which manufactures breadmaking compound. This is an example of the burden placed on such a company by high outbound rates, being 63 per cent higher than it would have been for similar distances in Official territory. Just as in the other cases, with the percentage relationship shown at the bottom of each table, either the customers, the workers or the stockholders might enjoy some portion of any saving made in freight charges.

On page 7, take the example of the Round Rock White Lime Company of Round Rock, Texas. That is an example of a comparatively low value commodity where freight rates paid both on inbound and outbound shipments con-
[fol. 2105] stitute a very substantial part of the cost of doing business. In this case it will be seen that this amounted, for total freight charges actually paid on outbound and inbound shipments, to 42.89 per cent of net sales for 1939.

Industrial operations in the Southwest are restricted in their activities, in their earnings or markets by class rate discriminations. The examples in this exhibit are typical. With the exception of the producer of canned foods, pages 2 and 3, Official territory is seen to be the greatest source of inbound tonnage of these companies. This is because

the Southwest still depends on Official territory for processed goods, even the industrial products used by the producers under consideration, such as paper boxes from Toledo, Ohio, used by the Round Rock White Lime Company. For outbound shipments it is seen that four out of the five concerns find their chief markets in the Southwest. One of them, pages 2 and 3, that is the Walker's Austex Chili Company, finds its chief market in Southern territory. Official territory is an important market for only two of these manufacturers, but it might be more important were equality of opportunity available.

I will now pass to the second section of exhibit No. 104 which is concerned with certain comparisons based on the Census of Manufactures, pages 8, 9, 10, 11 and 12. These charts show that the Southwest which is included in the [fol. 2106] West South Central Region by the Census Bureau, is far from being industrialized. Page 12 shows the basic statistics of the manufacturing industries in Texas alone for the Census years 1927 to 1937. During this 10-year period the number of establishments in the state rose and fell, but at the end of the period there were only slightly more than at the beginning. Value of product, however, has increased materially, due largely to rise in prices rather than to a change in the nature of manufacturing in the state. With this increase in the value of products and the small increase in the number of establishments, wages paid and number of wage earners have increased only slightly.

The purpose of introducing these exhibits, these statistical exhibits based on the Census of Manufactures, is to point out the present situation in manufacturing in the Southwest and particularly in Texas which emphasizes the fact that for some reason industry has not developed in this area. Freight rates have played a part in this lack of development. This is because any inequality such as that shown by the industrial examples on pages 2 to 7 must somehow be counterbalanced; for consumers will not willingly pay a premium for goods made in the Southwest. This inequality may be made up in reduced profits to the producers or by paying lower wages or if it is an industry using a local raw material, by lower prices paid farmers and other suppliers of such raw materials.

[fol. 2107] The handicap of unequal freight rates narrows markets for Southern and Southwestern manufactured

products. This is one reason why industries in these regions often remain small and in a measure accounts for the wide differences in production and wages and salaries in various areas as indicated by these charts just referred to. In certain times the number of jobs and investment opportunities is decidely limited in the West South Central area, and this is particularly so in the state of Texas. Obviously such burdens are bad, not only for Texas and the Southwest, but actually for the nation as a whole. The entire country cannot fully prosper while important parts are suffering.

The handicap of inequality of freight rates might perhaps be lessened if the Southwest could prosper without greater industrial development than they now have, but we cannot. As freight rate inequalities prevent this increase in industrial development, they must be removed. There is not sufficient difference in transportation conditions as between the Southwest and Official territory to warrant a difference in rates, mile for mile.

The income enjoyed by the average citizen living in Official territory is higher than that enjoyed by the average citizen of the South and Southwest. Southwesterners are relatively poor people because the region in which they live is too dependent on the production of staple agricul- [fol. 2108] tural commodities and raw materials. One cure for this situation lies in an increased industrial development in this part of the country. This will help the Southwest stand on its own feet. It will create more income to buy, not only Southern and Western products, but goods produced in other parts of the United States. Finally, it will help restore a wholesome competition among the several regions which in the end, can only benefit both producers and consumers.

Mr. Cammack: One more question.

By Mr. Cammack:

Q. Is the material contained in exhibit 104 true and correct to the best of your knowledge and belief, Dr. Frederick?

A. It is.

Mr. Cammack: We offer in evidence exhibit No. 104, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of exhibit No. 104?

Mr. Barron: I object to exhibit 104 for this reason: It contains nothing in the world but conclusions. There are no facts. There are no rates. There are no origins or destinations shown. We do not know whether the figures are correct. There is no way in the world for us to determine.

Chairman Aitchison: I suppose his work sheets are available for your inspection.

Mr. Cammack: We have the work sheets here available [fol. 2109] and we will be glad to deliver them to counsel for examination if they so desire. It would have been impractical to attempt to reproduce all of these destinations, I think.

Mr. Barron: Well, in view of the time remaining at this hearing, it would be impossible to do it now.

Chairman Aitchison: There is plenty of time between now and the 16th of November.

Mr. Barron: If I can have them during that period, all right. Fine.

Mr. Cammack: We shall be glad to accommodate counsel in that respect.

Mr. Barron: Thank you.

Chairman Aitchison: The objection is overruled. Exhibit No. 104 is received in evidence.

(Exhibit No. 104, Witness Frederick, received in evidence.)

Mr. Cammack: You may cross-examine.

Chairman Aitchison: Mr. Barron.

Cross-examination.

By Mr. Barron:

Q. Dr. Frederick, taking the figures for the five concerns shown on your exhibit No. 104, I add up the difference to be just about $83,000. What would be your best estimate if the same ratio of reductions was to be effected in all the business in the Southwest, if your proposition was approved by the Interstate Commerce Commission? How much would it amount to?

[fol. 2110] A. I do not know that I have made any proposition, but as I understand it, what you are referring to

there is what I call the difference between actual and Official territory?

Q. Yes.

A. In other words, you have added up the totals?

Q. Yes. I added them up and arrived at a figure of $83,000.

A. All right. Now, your question then is, how would that affect the railroads in reduced income?

Q. Yes. What would be the reduction in the rail rates if there were an equality and the same rates were put into the Southwest as in Official territory?

A. I cannot say.

Q. It would be a staggering amount, would it not?

A. I would not want to commit myself without an investigation.

Q. What you have done is to take the freight bills or freight papers, determine the origin and destination for these five firms and then you have assumed for that same haul in Official territory what the rate would be, have you not?

A. We have checked with the tariff authorities, and all of that.

Q. Yes.

A. As shown on the last page.

Q. That is the way you did it, is that not true?

A. For the same distance as they moved in Southwestern [fol. 2111] territory, yes.

Q. You have not given any consideration to the fact that if there was a competitor located in Official territory shipping to the same destination territories as you have indicated on this exhibit, that that shipper in Official territory would be paying a substantially different rate than the rate applicable in Official territory; is that not true?

A. You mean, a competitor in Official territory?

Q. Yes.

A. Would be paying a different rate than that applicable in Official territory?

Q. Yes, if he was shipping from Official to Transcontinental territory, or as you show here, Mountain Pacific territory.

A. You misunderstand the purpose of this whole thing, I am afraid. We are not trying to match this up with any competitor at all. All we are trying to do is show that

here are five concerns in Texas, which, due to the rate situation, had to pay more than we think they should have paid for the equivalent service that they received from the carriers. We took no competitive situation from the standpoint of competitive markets into consideration at all.

Q. I believe you said "equivalent service", did you not?

A. The same, mile for mile haulage. That is what I am talking about.

Q. Yes. Well, now, looking at page 2 of this exhibit, you [fol. 2112] show there that to Mountain Pacific territory which is the highest rated territory of any shown on page 2, you shipped more carload traffic than to any other. How do you account for that, if the freight rates are such a deterrent?

A. I am not saying that the freight rate is a deterrent to these people doing business. This is a different kind of exhibit from some we have had introduced.

Q. Yes.

A. All I am saying is that due to the freight rates these people have to pay, they pay too much. Whether they ship to Mountain Pacific territory or whether they ship to Southern territory or whether most of their traffic is within Southwestern territory, is immaterial from the standpoint of the profit and loss statement of the company.

Q. That excess that you arrived at is the difference between what they paid and what they would have to pay if they were located in Official territory?

A. No. If the Official territory rates had applied to them located where they are.

Q. That is your basis for saying they are unreasonable, is that right?

A. That is my basis for saying they are paying too much.

Mr. Barron: Yes.

By Mr. Barron:

Q. In answer to a question from the bench—I think it was from Commissioner Splawn—you said that you did [fol. 2113] not think the railroads in Texas needed this money over and above what would have been received under the Official rates. You said they did not need that money, did you not?

A. I did not answer it just exactly that way, as I recall it. I believe I said there were not substantial enough differ-

ences in transportation conditions to warrant the tremendous or the large differential which now works against the Southwest shippers.

Q. Have you made an investigation as to the transportation conditions in Southwest versus Official territory?

A. I am relying upon the data which has already been introduced in exhibit form in this hearing.

Q. Have you made an investigation, Doctor?

A. Not personally, no, sir.

Q. Do you have any idea as to what the financial situation of the railroads in Texas was from 1931 to 1940?

A. Only a very general idea.

Q. What was that?

A. It was not a healthy situation.

Q. Do you know that for that period they failed by more than one hundred million dollars to earn their operating expenses, taxes, fixed charges, and so forth?

A. I do not know the exact figures.

Q. Yet you think that they do not need this difference, as you answered the Commissioner, is that right?

[fol. 2114] A. I say that conditions there do not warrant this differential which the shippers as shown in this exhibit and other shippers no doubt are having to pay.

Mr. Barron: Thank you.

Mr. J. R. Bell: I have one question, please.

Chairman Aitchison: Mr. J. R. Bell.

By Mr. J. R. Bell:

Q. I have difficulty in applying the showing in your exhibit No. 104 as a practical matter. Did I understand you to say it had been prepared without any consideration whatever for any actual competitive conditions?

A. What I meant there by "competitive conditions", was whether one or the other of these companies might sell more, let us say, in another area, if there were lower rates. That is right. This is purely a statement of what they did pay.

Q. Did you compare this with any information pertaining to similar concerns, say, in Official territory with which these people may compete or do compete?

A. No, sir. Such information would probably not have been available to us.

Q. Then all you have done here is to assume the application of the Official scale and compare what the charges under that scale would be with the existing charges?

A. That is right.

Q. You have given no consideration whatever to the lower cost of production due to these concerns being closer to the [fol. 2115] sources of supply of raw materials, or the materials that are processed by them as contrasted with similar concerns in Official territory, have you?

A. That is quite correct.

Q. All right.

A. This deals only with freight rates paid.

Mr. J. R. Bell: That is all.

By Chairman Aitchison:

Q. Is it true that the concerns in Official territory are further away from the sources of supply?

A. I would not want to say, Mr. Chairman. I am not quite sure whether they are or not.

Q. Take some of these concerns who make chili.

A. I might say, Mr. Chairman, as to the manufacture of chili that he gets his beans and his chili powder from California and he gets his cans from either Houston, Texas or Indianapolis.

Q. Where does he get his tomatoes?

A. He gets his tomato puree from St. Louis.

Chairman Aitchison: Is there any further cross-examination of Dr. Frederick?

Mr. McCollester: I have a few questions, please.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Dr. Frederick, your expression here that these concerns have paid too much freight rests on the simple fact [fol. 2116] of the difference between the freight rate levels in Official territory and Texas as reflected in the computations shown on your exhibit?

A. That is correct.

Q. Is that right?

A. Yes.

Q. If that difference were eliminated by raising the Official rates to the Texas level, then your basis for saying

that these concerns paid too high freight charges would be removed, would it not?

A. If we have an equal basis with other parts of the country, that would be so. That is correct.

Q. And to bring about equality by raising freight rates in Official territory would increase the freight expense of these concerns, would it not, by increasing both the rates on their materials that they buy in Official territory and the rates on the outbound products that they may sell in Official territory?

A. That would be so.

Q. You would not advocate that, I assume.

A. Well it would not make very much difference, because of the fact then we would have an artificial sort of situation.

Q. I thought you were simply showing us not the competitive situation, but the freight charges borne by these particular concerns.

[fol. 2117] A. That is what the exhibit shows, just the freight charges borne.

Q. By bringing about equality through raising the Official level would increase the freight charges of these particular concerns, is that not so?

A. On goods moving from the Official area, yes.

Q. Now, I notice that the Brenham Cotton Mills, Inc. shown on page 4 appears to get a greater part of its raw materials, in fact, 54 per cent, in Official territory and to sell more of its product in Official territory than any other territory. Is that correct?

A. No, sir. They buy their cotton locally in the market at Brenham, and there is no rail transportation involved. This 54.1 per cent of total pounds shipped in represents textile machinery and repairs.

Q. Does that not represent their current raw materials?

A. No, sir.

Q. Is it not true that some of the other concerns shown use raw materials purchased locally without transportation?

A. To a very large degree, although the Superior Products Company uses a considerable amount of chemicals, containers, and things of that nature which make up the percentage of inbound tonnage coming from Official territory. They are industrial products which go into the production of their finished articles.

[fol. 2118] Q. What do they manufacture?

A. They manufacture toilet preparations, ink, paste, furniture polish, and about 180 items along that line.

Q. Now, refer to page No. 12 of your exhibit. I want to ask you a question in connection with that so the record will not be confused on that point.

A. All right.

Q. It is correct, is it not, that these statistics for number of establishments do not reflect number of plants?

A. That is the number of plants, yes, sir.

Q. It shows the number of establishments.

A. Number of establishments is the Census term.

Q. Yes.

A. That means a plant producing $5,000 or more worth of goods in any one Census year.

Q. Is that correct, Doctor? If you have two corporations with two plants and they merge, do they not have one establishment for the purpose of the Census?

A. No, sir.

Q. Are you sure?

A. Yes, sir.

Mr. McCollester: I have been informed otherwise.

By Mr. McCollester:

Q. Why did you stop your chart with the year 1937?

A. This is a 10-year comparison which we had made up. [fol. 2119] prior to the 1939 Census figures being made available and we felt that it gave a very fair comparison. You can note from the charts previously shown for 1939 that it would not make a great deal of difference. It would not change this comparison very much.

Q. It indicates the trends that have proceeded since 1937?

A. That is the purpose.

Q. You say the same trend has continued since 1937?

A. That is correct.

Q. Now, is it not a fact that Houston has been one of the most rapidly growing industrial cities in the United States?

A. I do not know as you could call it a rapidly growing industrial city, no, sir. There has been a great growth in population.

Q. How about Dallas?

A. I would not say until the establishment of the airplane factories in that region which have occurred since 1939

that Dallas has shown any great increase which would affect this trend as shown on this chart.

Q. Both of those cities are extremely prosperous are they not?

A. Right at the moment, yes.

Q. They have been for several years?

A. I would not say so. I do not think you could say they have been extremely prosperous except, let us say, for the last three or four years.

[fol. 2120] Mr. McCollester: Thank you.

Chairman Aitchison: Is there any further cross-examination?

Mr. Porter: I have one or two questions.

Chairman Aitchison: Mr. Porter.

By Mr. Porter:

Q. Dr. Frederick, I thought at the beginning of your cross-examination that I understood the way in which this exhibit was made up, but I am not sure that I do now. For example, have you taken the rates, we will say, on a shipment from Austin, Texas to a point in Montana and measured those against a corresponding rate from Chicago to New York?

A. No, sir.

Q. Have you taken the rate from Austin, Texas to a point in Montana and measured it against the rate from a point equally distant from the destination in Official territory?

A. That is right.

Q. Now, are there not a good many commodities that were handled by these companies for which you found no particular scale in Official territory?

A. Mostly they are class rated commodities.

Q. So you could measure those against the scale?

A. That is right. That is shown in our work papers here.

Q. Where you had commodities that were covered by point to point rates, how did you discover the Official territory level with respect to those?

[fol. 2121] A. That was done on an equivalent distance basis, by reference to one or the other of the records as shown here from the standpoint of the distance involved, which is also shown in our working papers, if you wish to observe them.

Q. You found, then, a producing point if possible in Official territory?

A. Wherever possible, but otherwise we used an equivalent mileage basis because that is what we are talking about, the equivalent distance that these shipments would move, if the Official territory rates applied in the Southwest.

Q. The distance within Official territory would depend largely upon the location of the destination, would it not?

A. That is right.

Q. For example, if you were going from Austin, Texas to Atlanta, Georgia, you would have to take an origin such as, possibly, Chicago, Illinois or Madison, Wisconsin, or some point about as far from Atlanta, Georgia——

A. That is right.

Q. —as you could find within Official territory?

A. That is right.

Mr. Porter: Thank you. That is all.

Chairman Aitchison: Mr. Grubbs.

By Mr. Grubbs:

Q. Dr. Frederick, did you hear the testimony given by Governor Holland?

A. Yes.

[fol. 2122] Q. You recall, I take it, that he said repeatedly that the Southern Governors did not wish to do anything that would impair the revenues, seriously impair the revenues of the Southern carriers, do you not?

A. I recall he said that, yes.

Q. Do you take any different view with respect to the railroads than that expressed by Governor Holland?

A. No. I would not say it is a different view. It is my personal opinion that if the Southwest was able to ship on equality with, let us say, Official territory, the same rate mile for mile, that in the long run it would not impair the revenues because we would do so much more business down there in the Southwest.

Q. Well, do I understand you are advocating equality or are you here advocating the Official levels of rates?

A. I am advocating one class rate level mile for mile the same in all territories.

Q. You do not care whether that equality is achieved by lowering the Southwestern rates and the rest of the connect-

ing lines of the Southern carriers, or by increasing the level in Official territory?

A. I feel that is a matter for the Commission. I cannot say as to that.

Q. You do not mean to say here that you think the Official carriers have been earning as much as or more than a fair [fol. 2123] return, or the Southwestern carriers?

A. No, sir.

Mr. Grubbs: That is all.

Mr. Barron: One more question, if I may.

By Mr. Barron:

Q. Dr. Frederick, do you know whether or not the firms that you have shown in your exhibit have complained about the freight rates that they now have to pay?

A. I do not know that they have issued a formal complaint. They have complained informally.

Q. Do you represent them at this hearing?

A. No, sir.

Mr. Barron: Thank you.

Chairman Aitchison: Is there any further cross-examination of Dr. Frederick? (No response.) Have you anything further, Mr. Cammack?

Mr. Cammack: No redirect.

Chairman Aitchison: You may stand aside, Doctor.

(Witness excused.)

Mr. Cammack: That concludes the presentation at this hearing for the account of the Southwestern interests.

Chairman Aitchison: Very well.

Mr. Cammack: We had one other witness who could not be here at this time. If we may have an opportunity, we may put him on at Columbus.

Chairman Aitchison: Mr. Wood, will you come forward, [fol. 2124] please.

Mr. Wood: Yes, sir.

Chairman Aitchison: Raise your right hand and be sworn.

THOMAS S. WOOD was sworn and testified as follows:

Direct examination.

By Chairman Aitchison:

Q. Your name is Thomas S. Wood?

A. That is right.

Q. You are Rate Expert of the Public Utilities Commission of the State of Colorado?

A. Yes, sir.

Q. Mr. Henry S. Sherman is Chairman of that Commission?

A. Yes.

Q. He was here in attendance at the hearing?

A. Yes, sir.

Q. But was compelled to leave?

A. That is right.

Q. Did he leave with you a statement of testimony that he intended to give?

A. He did.

Q. Are the matters to which he refers within your personal knowledge?

A. Yes, sir.

Q. You have that statement ready to be incorporated into the record as both your testimony and as that which [fol. 2125] Mr. Sherman would have given if he were here?

A. I beg your pardon?

Chairman Aitchison: Read the question.

(Question read.)

A. That is right.

Chairman Aitchison: Is there any objection to the incorporation of that statement? (No Response.) That may be done.

The Witness: My only purpose is to state generally the position of Colorado and its Commission with respect to the instant matter. We contend, that the class rates in Colorado authorized in Application No. 814 (our companion case to I. C. C. Docket 17000, Part 2) are in a general way nothing more than paper rates. In the majority of cases where there is a contemplated movement of traffic and the only rates in effect are class rates, the carriers will request our Commission to authorize the publication of a special

commodity rate on less than statutory notice to take care of the movement or movements in question.

Prior to the advent of the 17000 Part 2 rates, the class rates between Denver and points in northern and eastern Colorado were not on the same relative level as those between Denver and points south of Denver, on and east of the Colorado Common Points. The 17000 Part 2, Zone 3, scale of rates was made effective in that part of Colorado [fol. 2126] involved in the W. T. L. class rate proceeding; namely, on and east of the Colorado Common Points. After some 30 or 40 days, the carriers serving northern and eastern Colorado out of Denver petitioned our Commission for authority to publish on less than statutory notice reduced rates on 1st, 2nd, 3rd, 4th, 5th, and Classes A and B, to meet truck competition. The aggregate of the reduced rates for all of the involved classes represented approximately 106 per cent of the Western Trunk Line base scale prescribed in Docket 17000, Part 2.

In 1935 our Commission prescribed rates for motor vehicle carriers, among which were class rates on the first four classes, and the rail carriers increased their class rates to the same level as the motor carriers' rates, which were approximately 107 per cent of the W. T. L. Zone 1 rates. We also prescribed rates on the four classes subject to minimum weights of 5000 and 10,000 pounds, which were approximately 76 and 53 per cent, respectively, of the less than truckload rates. The rail carriers also published these rates. However, they also published a notice of protest in their tariffs regarding the level of the rates, which, in substance was that they were extremely low and, in their opinion, were not reasonably compensatory. Nevertheless, they are moving traffic today under these rates, which, in all likelihood, would be moving by truck, had such rates not been published by the rail carriers.

[fol. 2127] This sketch is given to your Commission in order that you may have a picture of the situation in Colorado as it exists today, and it is the opinion of our Commission that the situation in our state is not foreign to that of the rest of the country. In other words, it would appear that the class rates prescribed in Docket 17000, Part 2, have become, to a great extent, obsolete, and should be revised.

It may be argued that a single scale of rates should apply throughout the entire territory involved in this proceeding.

We are inclined to believe that such a change would be quite drastic to the rail carriers' revenues. We further believe that the present method of laminating or pyramiding the rates by zones does not permit a free movement of traffic. The manufacturer located at the extreme end of the adjustment, as we are in Colorado, is at a distinct rate disadvantage in competing with his competitor located at the other end of the adjustment.

If the natural resources of the various sections of the nation are to be developed to the fullest extent, rate barriers must be removed as much as possible in order that all concerned may reach a common market on a relatively equal basis. The states with sparse population, such as Colorado, cannot consume all of their manufactured products, and must find, or attempt to find, a market in the more densely populated section of the nation.

[fol. 2128] We believe that a uniform classification should be established throughout the territory. We have collaborated with the other states in W.T.L. territory, and our position in regard to the classification will be expressed more fully by two exhibits which have been introduced by Mr. J. A. Little of the Nebraska Commission.

Chairman Aitchison: Is there any cross-examination? (No response.) You may stand aside.

(Witness excused.)

Chairman Aitchison: We will take a short recess.

(A short recess was taken.)

Chairman Aitchison: We will resume, gentlemen. You may proceed, Mr. Williamson.

Mr. Williamson: I may state, Mr. Chairman, that I am appearing on behalf of the Public Utilities Commission of the state of South Dakota and the state generally as is the witness whom I am about to call. Be sworn, please, Mr. Carr.

Chairman Aitchison: Raise your right hand.

Mr. Barron: What was that last statement?

Chairman Aitchison: The reporter will read it.

(Record read.)

Chairman Aitchison: Proceed.

C. A. CARR was sworn and testified as follows:

Direct examination.

[fol. 2129] By Mr. Williamson:

Q. Will you state your full name for the record, please, Mr. Carr, your residence and occupation?

A. My name is C. A. Carr. I am Rate Expert for the South Dakota Public Utilities Commission.

Mr. Barron: We cannot hear him. I am sorry.

The Witness: I am Rate Expert with the South Dakota Public Utilities Commission, Pierre, South Dakota.

By Mr. Williamson:

Q. Will you state your qualifications, please, Mr. Carr?

A. I have been in that position off and on for the last 14 years. Prior to that time I had various rate and traffic experience with Northwestern Railroads and various chambers of commerce and traffic departments.

Q. Have you prepared an exhibit relative to the matter now under consideration?

A. Yes, I have. I have prepared an exhibit consisting of 35 pages.

Mr. Williamson: May that be marked for identification as exhibit No. 105, Mr. Chairman?

Chairman Aitchison: It may be so marked.

(Exhibit No. 105, Witness Carr, marked for identification.)

By Mr. Williamson:

Q. According to your best knowledge, information and belief, is the data contained in exhibit No. 105 true and correct?

[fol. 2130] A. Yes, sir.

Q. Was it prepared by you or under your direct supervision?

A. It was.

Q. Will you now proceed in your own way and make such explanation of this exhibit as you desire.

A. The state of South Dakota has a population according to the 1940 Census of 642,961. The area of South Dakota is 76,536 square miles, being the 14th state in size in the Union.

Pages 1 to 3 of my exhibit are maps. Page 1 is a map of the United States showing the different rate territories for rate-making purposes, and it shows the location of South Dakota, being mostly in zones 2 and 3 of Western Trunk Line territory. Page 2 is a map of Western Trunk Line territory showing the location of South Dakota and zones 2 and 3, and also a few of the larger jobbing points in the state. Page 3 is a map of the state of South Dakota showing groupings as followed by the carriers in complying with the Commission's decision in 17000 Part 2.

The state of South Dakota has some 468 towns. These 468 towns are grouped for rate-making purposes in Western Trunk Line territory in 148 groups. However, that, as I said, applies only in Western Trunk Line territory. Taking a shipment from Central Freight Association or Eastern Trunk Line territory to South Dakota, the 468 towns are grouped into only 35 rate groups. Pages 4 to 10 cover sta- [fol. 2131] tistics relating to movement by rail of traffic originating and terminating in South Dakota. These are reliable and accurate figures taken from the carriers' reports to the Board and show that South Dakota is an agricultural rather than a manufacturing state. The figures are largely self-explanatory. Page 4 shows the movement originating and terminating of all less than carload traffic for the years 1928 to 1940. I would like, if I may, to read into the record the 1941 figures: Originating, 1941, 49,091 tons. Terminating——

Mr. Hughes: What was that figure?

The Witness: 49,091. Terminating, 93,779. Total tonnage both originated and terminated, 142,870. The percentage of the 1928 figure for 1941 is 29.4 per cent. I do wish on this page to call attention to the gradual and continual drop in tonnage from 1928 to 1941.

By Mr. Williamson:

Q. You are referring to less than carload freight entirely here?

A. Yes, in that particular case.

Q. Go ahead.

A. Page 5 is a graph showing the same figures shown on page 4 only in a different manner. Page 6 covers the rail movement of carload freight to and from South Dakota from 1928 to 1940. I would like, if I may, to read into the

record the 1941 figures. Originating, 78,201 cars. Terminating, 93,779 cars. Total, 171,980.

[fol. 2132] Page 7 shows the same information only in graphic form. On page 8 I have segregated the commodities originated and terminated by groups to indicate, as I said before, that South Dakota is an agricultural rather than a manufacturing state. The figures are self-explanatory and the 1941 figures are a little bit higher than the 1940 figures. I do not believe it is necessary to read those into the record. I do wish to say, though, in connection with page 8 that I have taken the grand total from each one of the different groups of commodities and here is the percentage relation of each group to the total: Under products of mines, 7½ per cent of the total; products of forest, 1.7 per cent; products of agriculture, 34.8 per cent; products of animals, 47.7 per cent; and manufactures and miscellaneous, 8.3 per cent. On the other hand the terminated percentages—the percentages I just gave you were originated percentages—are as follows: products of mines, 32.6 per cent; products of forest, 4.9 per cent; products of agriculture, 14.3 per cent; animals and products, 10.8 per cent; and manufactures and miscellaneous, 37.4 per cent.

Page 9 contains similar figures, only shown in graphic form taken from page 8. On page 10 I have shown originating and terminating carload traffic in numbers of tons. The figures are self-explanatory. Pages 11 to 20 deal with the rate levels in the state of South Dakota versus surrounding [fol. 2133] states. On page 11, I have taken the C. F. A. scale—by the way, these rates are not increased 6 per cent according to Ex Parte 148.

[fol. 2134] I have taken the rates in the C. F. A. scale up to 1,500 miles. I have shown the first and fourth class rates. Now, let's take 1,000 miles for instance. The first class rate is $1.82. I have taken that same rate and shown how far the rate would carry under the other scales in the United States, South Dakota being in zones 2 and 3. The $1.82 rate for 1,000 miles in C. F. A. territory would carry the same shipment 520 miles in zone 2 and only 440 miles in zone 3.

Page 12 is a statement showing the level of rates in Western Trunk Line territory, zones 1, 2, 3 and 4, and the other scales. It is just a comparison of percentage relation. Page 13 is practically the same as page 11, only I have dropped the fourth class and have used the present rates increased 6 per cent. Page 14 is a graph showing the different

scales of rates. I have used the C. F. A. original scale and the rehearing scale. I have used the Western Trunk Line original, rehearing and present. This shows Western Trunk Line, of course, to be considerably higher than C. F. A. On page 15 I have taken a movement from New York to the Pacific Coast and have shown the first and fourth class rates in jumps of 500 miles. It shows the jump immediately east of Chicago, in Western Trunk Line zones 1, 2, 3 and 4 scales, and then the drop in the Inter-Mountain territory as the result of 172 I. C. C. 306.

[fol. 2135] By Chairman Aitchison:

Q. Am I to understand there are fourth section violations shown here?

A. I do not believe there are fourth section violations. It would indicate that, but——

Q. As a matter of fact, Laramie is intermediate to New York City from Salt Lake and San Francisco, is it not?

A. Those are the rates, Mr. Chairman. I had not thought about fourth section violations.

Chairman Aitchison: I was not aware that any class rate fourth section relief had been granted. I thought that was denied back in about 78 I. C. C.

The Witness: That is true. I will check into that and satisfy my own mind, too. I am not so sure how that works out there, but those are the rates.

By Chairman Aitchison:

Q. Do you think $2 is the first class rate to San Francisco from New York?

A. $2 is the rate under the Utah Scale for 500 miles.

A. Oh. These are not, then, the rates from New York to——

Mr. Williamson: The rates are shown in each case for 500 miles only.

Chairman Aitchison: From where? From each point of origin?

The Witness: I have just taken these points to show the location of the towns and the approximate mileages. But it is true that those are not the first class rates from New [fol. 2136] York to San Francisco and so forth.

Chairman Aitchison: Of course not.

The Witness: No, but they are the 500 mile jump in each territory.

Chairman Aitchison: Proceed.

The Witness: On page 16 I have shown the history of the rates from 1910 down to date, with the exception of the Ex Parte 148 increases from typical jobbing points in Western Trunk Line territory to typical South Dakota points. I would like to just take one example, Chicago to Sioux Falls, for instance. The first class rate in 1910 was 83 cents. It jumped in 1938 to $1.61. The fourth class rate jumped over 150 per cent, from 33½ cents to 56½ cents. Mr. Morrison, who testified for the Northern Pacific Railroad in this hearing indicated that the rates that the carriers put into effect on December 3, 1931, from the Seaboard and C. F. A. to North Dakota——

Mr. Hughes: I am sorry, Mr. Chairman, but we are having a great deal of difficulty in hearing the witness.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Proceed.

The Witness: Mr. Morrison, who testified for the Northern Pacific Railroad at this hearing, indicated that the rates that the carriers put into effect on December 3, 1931, [fol. 2137] constituted quite considerable reductions. Now, on page 17 I have taken some typical rates from C. F. A. and Trunk Line territory to typical South Dakota points and this page indicates that as far as South Dakota is concerned, the carriers have today those rates practically all up, and many times higher than the December 2nd, 1931, reductions, or December 3rd, 1931, reductions.

On page 18 I have taken a shipment from New York to some typical South Dakota points. Let's take Watertown, for instance. The rate from New York to Chicago first class is $1.77. The rate from New York to Watertown is $3.06. The spread in rates over Chicago is $1.26. Using the C. F. A. scale, that spread would be 90 cents as far as Watertown is concerned. The other examples are shown in detail on that page. On page 19 I have taken the carriers' figures for all less than carload tonnage from the year 1928 to date, moving in the United States moving in the Eastern territory, the Western District and the Southern District. While I have not shown on my exhibit the

totals of that tonnage, I have totaled them and h ve figured out the percentage.

Mr. Williamson: Leave out the totals and give us the percentages, to save time.

The Witness: In the Eastern District the tonnage originated was 49.9 per cent of the total United States tonnage, but the revenue paid by shippers in the Eastern District [fol. 2138] was 43½ per cent of the total. In the Southern District the tonnage originated was 20.5 per cent of the United States, while the revenue was 21½ per cent. In our Western District the tonnage originated was 29.7 per cent, but we paid 3.36 per cent of the total revenue.

On page 20 I have shown various formulas in making class rates in Western Trunk Line territory. The first formula is the laminated scale prescribed by the Interstate Commerce Commission in 17000 Part 2. The exhibit is self-explanatory. Our present rate from Chicago to Pierre, of course, is $2.27 without the 6 per cent increase, and I have shown how other formulas prescribed in certain instances by the Commission work out instead of the laminated formula.

I think right here I would like to mention the fact that our rates into Western South Dakota we have always considered, especially in zones 2 and 3, were on too high a level as compared with the rates east of South Dakota. Now, the Commission in prescribing other rates have prescribed, for instance, on livestock—they did not put a system of arbitrarie- in going east on eastbound traffic. In 17000 Part 9 they made one scale of livestock rates from South Dakota to the east and to Chicago. In Docket 12358 they did the same thing. In the Gypsum Case, Docket 23823, the Commission prescribed its scale of rates from Fort Dodge, out into South Dakota, on a single level of [fol. 2139] rates. In the Holmes and Hollowell Case they prescribed coal rates in 60 I. C. C. 687, and so forth, without a system of zoning or arbitraries such as has been done in our class rates. In I. & S. 3659 there were no arbitraries and no zoning prescribed in that case. In our grain rate case, 17000 Part 7, we have no system of zoning or arbitraries.

Chairman Aitchison: Cannot the witness just list those cases and say there are no arbitraries in them?

Mr. Williamson: Yes. I think he might do that.

Chairman Aitchison: May I ask this: have you any arrangement for a division of time with North Dakota? This witness was supposed to be on for 20 minutes. He has been on far longer than that now.

Mr. Williamson: I know.

Chairman Aitchison: Have you any arrangement for a division of time?

Mr. Williamson: No. We have no arrangement as to a division of time. No further than was stated yesterday; as to about how much time it would take. He has been on longer than I thought he would take, from his explanation.

The Witness: I believe I can hurry it up, Mr. Chairman.

Chairman Aitchison: I think that would be very much appreciated by the people who will follow you, as well as us.

The Witness: I would like to mention the Express Case, 83 I. C. C. 606.

[fol. 2140] By Mr. Williamson:

Q. Please conclude the explanation of your exhibit as briefly as possible, Mr. Carr.

A. Pages 21 to 30 cover statistics dealing with the trucking situation in South Dakota. Page 21 shows the registration of automobiles and trucks—or rather, the registration of trucks. Page 22 shows the scale of rates prescribed by our Board for application for class A truckers in the state. Page 3 is that same scale compared with the 17000 part 2 zones 2 and 3 rates.

On page 24 I have taken the mileages from 20 miles up to 160 and shown the first and fourth class rates for common carriers in the different states compared with the 17000 Part 2 zones 2 and 3 scales. On pages 25 and 26 I have shown the situation as far as trucking rates are concerned in Idaho. Page 27 carries——

By Chairman Aitchison:

Q. What is the significance of showing the class rates from Idaho? They are not involved in this proceeding.

A. That is true, Mr. Chairman. The only reason I put those in was to show that throughout the country there were rates much lower than those prescribed by the Commission, truck competitive rates.

Q. Those are rail rates, are they?

A. I have shown those—yes. Those are rail rates, yes, sir. I have shown the tariff authority I believe on the last sheet.

[fol. 2141] Q. They are intrastate rates to a considerable extent?

A. Well, that is true. There are some intrastate rates.

Chairman Aitchison: And the class percentage relation is entirely different. You may take my word for it. Look at Pocatello.

Mr. Williamson: I believe that all the succeeding pages there are self-explanatory and no further statement is required of Mr. Carr.

The Witness: Yes. I believe that is correct. The exhibit contains on pages 31 to 35 a study relating to the different transportation elements affecting transportation in the state of North Dakota. I believe it is self-explanatory.

By Chairman Aitchison:

Q. Well, with respect to that, how did you get the values that you used?

A On page 31, Mr. Chairman?

Q. Yes.

Mr. Hughes: Mr. Chairman, we are unable to hear the witness. Perhaps if he would speak directly into the microphone we could hear him better.

Chairman Aitchison: Try to speak directly into the microphone, Mr. Carr, so everyone can hear you.

The Witness: The values there are as shown in the explanation the average valuation per mile of road for representative lines in Official Classification territory and they [fol. 2142] were taken from the decisions of the Commission in various valuation dockets.

Chairman Aitchison: No. That is not what it says. It says "based upon", which is different from "taken from".

The Witness: Mr. Commissioner, in Witness Saunders' Exhibit 86 he had some figures. As to this exhibit, I do not place too much value on it. It is just one of a group to show the different situations as affecting the elements of transportation in the state.

By Chairman Aitchison:

Q. Was this taken from the Saunders exhibit?

A. No, sir. It was not. The reason I mentioned Saunders' exhibit was that my figures did not agree with some of his figures, and I cannot recall now just the numbers of the citations of the Commission's decisions.

Chairman Aitchison: We will take notice of those valuation decisions. I think we have to under the statute as of the dates thereof, which were some time back.

By Chairman Aitchison:

Q. Your exhibit shows that these values are based upon those old valuations, and I would like to know how you brought them down to whatever time this particular page speaks of.

A. I did not bring them down to date, Mr. Chairman.

Q. Oh. I see. These are all as of valuation date?

A. Yes.

[fol. 2143] Chairman Aitchison: All right. We were talking at cross purposes. I thought you had tried to bring them down.

The Witness: No.

Chairman Aitchison: Proceed.

Mr. Williamson: We had intended to put in some data with reference to South Dakota resources, but in view of the length of time already consumed, we will omit that part of the testimony. Mr. Carr is now ready for cross examination.

Chairman Aitchison: Do you offer in evidence Exhibit No. 105?

Mr. Williamson: Yes. I offer Exhibit No. 105 in evidence, if the Chairman please.

Chairman Aitchison: Without objection, it is received.

(Exhibit No. 105, Witness Carr, received in evidence.)

Chairman Aitchison: Is there any cross examination? (No response.) Apparently not. You may stand aside.

(Witness excused.)

Mr. Williams: If the Commission please, I appear here for the state of North Dakota, Public Service Commission, Chamber of Commerce of Fargo, the Minot Association

of Commerce, and the Greater Grand Forks Traffic Association. At this time I would like to call Mr. Willard to the stand.

Chairman Aitchison: Raise your right hand and be sworn.

R. B. WILLARD was sworn and testified as follows:

[fol. 2144] Direct examination.

By Mr. Williams:

Q. Will you give your full name to the reporter, please, and state your residence and occupation, Mr. Willard.

A. My name is R. B. Willard, secretary and traffic manager of the Minot Association of Commerce, Minot, North Dakota.

Q. Will you state your qualifications.

A. I have held my present position for one year. Prior to that time I held a similar position with the Association of Commerce of Aberdeen. Prior to that I spent 3½ years with the Mitchell Traffic Bureau, also handling traffic affairs for the City of Yankton. Prior to that time I spent 9½ years as Assistant Commissioner of the Sioux Falls Traffic Bureau.

Q. Your experience briefly dates back to what year in railroad and traffic experience?

A. It dates back to some 44 years ago when I started working with the North Western Railroad in Sioux Falls, including the South Dakota Central Line, which is now part of the Great Northern System.

Chairman Aitchison: Is there any question about his qualifications? (No response.) We will take them as established.

Mr. Williams: Thank you.

By Mr. Williams:

Q. You are a registered practitioner before the Interstate Commerce Commission, are you?

[fol. 2145] A. I am, and have been, since 1930.

Q. Have you made a study of the issues involved in this proceeding and prepared an analysis of the economic, industrial and natural resources in North Dakota over a period of years?

A. Yes, sir.

Mr. Williams: Mr. Chairman, we will ask to have the same marked for identification as the next exhibit.

Chairman Aitchison: It may be marked for identification as Exhibit No. 106.

(Exhibit No. 106, Witness Willard, marked for identification.)

By Mr. Williams:

Q. Mr. Willard, will you take up your exhibit No. 106 and make a brief explanation of the contents thereof.

A. Exhibit No. 106 consists of 38 pages of data properly indexed relating to the population and statistics as reported by the Bureau of Census, 16th Census of the United States, taken in 1940, also manufacturing, wholesale trade, employment and industry figures taken from the same source, and information from the United States Census of Agriculture taken in the same year, 1940. I have also shown the natural resources which are almost wholly undeveloped in the state of North Dakota. Proper authorities for all factual data are shown. This exhibit has been properly distributed and should be in the hands of everyone.

[fol. 2146] Q. Take page 1 of the exhibit.

A. Page 1 of the exhibit relates to the population figures of the state, commencing with the year 1870, the earliest enumeration date, extending to the year 1940, when the last Federal Census was taken. It also shows population trends as between urban and rural districts. The population peak of 680,845 persons was reached in 1930, diminishing to 641,935 in 1940, a decrease of 38,910 persons, or 5.7 per cent.

Q. What is the present situation in North Dakota?

A. The present situation in North Dakota from the figures which I have been able to obtain through different sources indicate that the population has decreased from 95,000 to 100,000 under the 1940 figure, these people having gone into the armed services, and a great many having migrated to defense industries, of which we have none in North Dakota.

Q. Therefore you have a situation in North Dakota with 10,054 square miles and a population of approximately 550,000 people.

A. That is right.

Q. Is that correct?

A. That is correct, a density in 1940 of but 9.2 persons per square mile.

Q. Take page 2 of your exhibit and explain that very briefly.

[fol. 2147] A. Page 2 of Exhibit No. 106 is a showing of population increases and decreases for each of the Federal Census periods from 1870 to 1940, the increases being rather substantial to and including the year 1910, with smaller increases for the periods 1920 and 1930, followed by a decrease of 5.7 per cent between 1930 and 1940.

Q. Take up page 3 of your exhibit and explain that very briefly.

A. Page 3 of the exhibit is a showing of population changes in rural territory, indicating a 10.1 per cent or 57,527 person decline in 1940 as compared with 1930, leaving North Dakota with 79.4 per cent of its population in the rural areas. Table 2 commencing on this page and continuing on page 4, shows the trend for the four principal cities. There are only four cities in North Dakota having a population of 10,000 or more. A rather large gain is shown for Bismarck, the capital city, between 1920 and 1930 and between 1930 and 1940, which can be accounted for as Government employees necessary to take care of dispossessed farmers, to carry on several Government programs, and to relieve distressed conditions in the state.

Q. Take up page 5 of your exhibit and explain it very briefly. Hurry along as rapidly as possible.

A. Page 5 needs little comment. It indicates that there are only two counties in the state, Grand Forks and Cass, [fol. 2148] with a wage-earner capacity in excess of 650 per square mile.

Q. You mean 250?

A. 250.

Q. Go ahead.

A. Page 6 indicates that there are only 350 manufacturing establishments in the state. By that is meant manufacturing establishments doing a business of $5,000 or more.

Q. What is the total added value of manufactures for the year 1939?

A. For the year 1939 the total added value of manufactures was $11,102,198.

Q. Take up pages 7 and 8 of this exhibit and explain them very briefly.

A. Pages 7 and 8 show a breakdown of the manufacturing plants by counties. Again we find the value of manufactured products heaviest in Cass and Grand Forks counties where distributing rates into their natural distribution areas are lower than for the other cities in the state on interstate shipments.

Q. Take up page 9 of this exhibit and explain it very briefly, Mr. Willard.

A. Page 9 is a breakdown of manufacturing plants in the four principal cities, Bismarck, Fargo, Grand Forks and Minot. The value added by manufacture for the cities of Fargo and Grand Forks is not shown for reasons ex-
[fol. 2149] plained in footnote reference 9.

Q. That is on account of the packing plant situation at Fargo?

A. That is true.

Mr. Olson: It seems to me, Mr. Chairman, this exhibit is self-explanatory. In view of the shortness of time, I wonder if we cannot dispense with this explanation?

Mr. Williams: It is entirely agreeable, Mr. Chairman. I consider this study as purely self-explanatory.

Chairman Aitchison: As a matter of fact, it is not good practice if an exhibit is distributed in advance to simply read the headings on the various pages.

Mr. Williams: As a matter of fact, we are not reading the headings. We are making no conclusions from the evidence shown in the exhibit, but in view of the necessity for shortening the time——

Chairman Aitchison: We do not want anything to be shut out that it is necessary to have developed by oral testimony.

By Mr. Williams:

Q. Mr. Willard, briefly stated, page 10 of your exhibit shows that you have 350 manufacturing establishments in North Dakota, does it?

A. That is right.

Q. How are they distributed? Please turn to your page No. 12 of this exhibit and point out to the Commission
[fol. 2150] how they are distributed.

A. It will be noted from page 12 that newspapers and printing establishments account for approximately 25 per cent of the total, 68 newspapers and 12 printing establish-

ments, or a total of 80 out of the 350 grand total. The principal value of newspaper and printing plants as manufacturing establishments is in the wages paid their employees. In addition, there are 150 establishments manufacturing or processing dairy and poultry products, leaving a small total of 155 plants for all other classifications.

Q. Apparently there is plenty of opportunity for industrial development in North Dakota, would you say?

A. There is no industrial development of any consequence at the present time.

Q. Mr. Willard, will you turn to page 19 of your exhibit, which explains the relationship of rural population to urban population in North Dakota.

A. Page 19 shows the total land area and the percentage of total land area in farms to be 84.6 per cent, indicating that the preponderance of North Dakota's population is centered on the farms.

Q. How about the population? You show 84.6 as the percentage of total land area in farms. What is the population?

A. The population?

Q. State the percentage of rural population to total [fol. 2151] population.

A. (No answer.)

Q. Look under the year 1940.

A. 43½ per cent.

Q. For the United States as a whole?

A. For the United States as a whole.

Q. And 79.4 for the state of North Dakota?

A. That is correct.

Q. Take up page 20 of your exhibit.

A. Page 20 shows the details as to tenure of operators on North Dakota farms. It shows very strikingly the list of farms in the state for the years 1920 to 1940 inclusive.

Q. What has happened, Mr. Willard, to the farm values in North Dakota for the year 1920 versus 1940?

A. In the year 1920 we had a farm value of $1,488,521,495,——

Chairman Aitchison: I do not think we need——

Mr. Williams: Mr. Willard——

Chairman Aitchison: I do not think it is necessary——

Mr. Williams: ——will you please proceed to——

Chairman Aitchison: Just a minute, Mr. Williams, please: We have heard this story of North Dakota and agriculture so much and so recently, more particularly in Ex Parte 148, that I think you should let the exhibit speak for itself.

Mr. Williams: I would be perfectly willing to that, [fol. 2152] Mr. Chairman, except that I would like the members of this committee of cooperating state commissioners who are sitting in this proceeding to hear it. They perhaps were not in Ex Parte 148. Perhaps they do not understand that we wrote off a cold billion dollars in depreciated farm values from the year 1920 to the year 1940.

By Mr. Williams:

Q. Will you explain, Mr. Willard, page No. 25, which shows the location of the natural resources in North Dakota.

A. Page No. 25 is a map drawn for the State Planning Board. It shows the location of the natural resources in the state, chief among which is the six hundred billion tons of lignite coal located in the northwestern district.

Q. What percentage is that coal of the total coal in the United States, reserves?

A. That is 15 per cent of the total coal reserves of the United States.

Q. North Dakota with six hundred billion tons of lignite lying under the ground actually mines and ships by rail approximately how many tons, as shown on page 27 of your exhibit?

A. It ships approximately 2,176,841 tons—or rather, that is the production. It shipped 1,545,140 tons for the year 1939, in the last reported period.

Q. That tonnage is practically all confined to intrastate [fol. 2153] movement, is it not?

A. That is right. Very little tonnage moves outside of the state of North Dakota.

Q. Now, Mr. Willard, I call your attention to the large deposits of Bentonite, Glauber's Salt, Fuller's Earth and natural gas in North Dakota: what would you say with respect to our natural resources? Are they being developed?

A. Our natural resources are not being developed. Considerable investigation has been made, but there has been no development. The only development there has been in the lignite coal industry, and that only for fuel purposes.

Q. Would you say that North Dakota has demonstrated by this exhibit, — has large and extensive natural resources undeveloped at this time?

A. Yes. North Dakota has a large area of undeveloped resources. They have been almost totally undeveloped up to the present time.

Q. Did you prepare this exhibit No. 106 and is it true and correct to the best of your knowledge and belief?

A. It is to the best of my knowledge and belief, yes, sir.

Mr. Williams: Mr. Chairman, I offer in evidence Exhibit No. 106.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 106? (No response.) Without objection, it is received.

[fol. 2154] (Exhibit No. 106, Witness Willard, received in evidence.)

Mr. Williams: The witness is ready for cross-examination.

Chairman Aitchison: Is there any cross-examination of this witness?

Mr. Olson: We have no cross-examination.

Chairman Aitchison: Apparently there is none. You may step aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Williams: Mr. Agrey.

Chairman Aitchison: Raise your right hand and be sworn.

JOHN M. AGREY was sworn and testified as follows:

Direct examination.

By Mr. Williams:

Q. Will you give your full name to the reporter, please, Mr. Agrey, your residence and occupation.

A. My name is John M. Agrey; I am in charge of the Traffic Department for the Public Service Commission of the State of North Dakota, Bismarck, North Dakota.

Q. How long have you held that position?

Mr. Plunkett: We will concede Mr. Agrey's qualifications.

The Witness: Thank you.

Mr. Williams: Your qualifications have been conceded, Mr. Agrey.

[fol. 2155] By Mr. Williams:

Q. Will you take up the exhibit which you have prepared.

A. Yes.

Mr. Williams: We ask to have this exhibit marked for identification as Exhibit No. 107, if the Chairman please.

Chairman Aitchison: It may be so marked.

(Exhibit No. 107, Witness Agrey, marked for identification.)

By Mr. Williams:

Q. Proceed with your explanation of this exhibit, please, Mr. Agrey, making it as brief as possible.

A. The map on page 2 shows the railroads serving the state. Three of them, namely, the Soo Line, the Milwaukee, and the North Western, have lines extending from Illinois and Wisconsin into North Dakota or through North Dakota.

Chairman Aitchison: I am sorry, but I missed that answer. Will you read it, please, Mr. Reporter.

(The record was read.)

Chairman Aitchison: Proceed.

The Witness: The other two, the Great Northern and Northern Pacific railways, have their termini at the Twin Cities and Duluth on the east and the north Pacific coast ports on the west, and they are both joint owners of the Burlington. The names of the cities that have been circled in black are those shown on subsequent pages of the exhibit, as being representative origin or destination points, [fol. 2156] and are also the most important cities of the state.

By Mr. Williams:

Q. Will you briefly explain page 3, Mr. Agrey.

A. On page 3 I have shown the appendix E scale as extended to a distance of 2,000 miles. I believe that page is self-explanatory.

Q. You also show the scale brought down to date and plussed by the 6 per cent increase in Ex Parte 148?

A. In one instance it shows the Ex Parte 123 increases, and in the other instance the addition of the Ex Parte 148 increases.

Q. Take up pages 4 to 15 both inclusive of your exhibit and explain them briefly.

A. On pages 4 to 15 I have shown the distances and the present first class rates compared with first class rates made by the use of the Eastern Scale shown on page 3, between North Dakota cities on the one hand, and cities in Western Trunk Line, Official, Southeastern and Southwestern territories on the other. There is also shown the spreads in these rates as well as in the distances, North Dakota cities over the Twin Cities.

Q. What have you shown on pages 16 through 22?

A. Pages 16 to 22 show the same relative information, but using fewer origin points outside of North Dakota. In addition to the first class rates shown, there are also [fol. 2157] shown the fifth class rates. It is my opinion that the class rates prescribed by the Commission in the 17000 Part 2 Cases and as subsequently increases are too high to move the traffic. The carriers have not only reduced the charges for the transportation of commodities which should normally move on class rates by the publication of numerous commodity rates, but have lowered the classification ratings as well. This is partly illustrated on pages 25 to 29 inclusive. The heading on page 25 states it is a comparison of prescribed class rates with truck competitive class rates. They are not published as class rates, but are called commodity rates although they have every characteristic of a class rate but the name. These rates and ratings have been in effect for several years and were at one time published to expire on December 31st of each year. However, in the year 1941 the expiration date was removed and they are now published permanently.

Q. This is a permanent basis of rates now?

A. That is right.

Q. Take up pages 27, 28 and 29 of your exhibit.

A. The commodity descriptions shown on those pages are of a general nature, due to the fact that a detailed showing would have enlarged the exhibit considerably and beyond all proportion commensurate with its usefulness.

Q. What is the situation depicted on page 30 of your exhibit with reference to iron and steel rates between [fol. 2158] Chicago and the Twin Cities and North Dakota points?

A. In the Docket 17000 Part 2 Cases the Commission prescribed column 32½ on iron and steel articles, but within a short time after the rates became effective, departures occurred from the prescribed basis. This is shown on this page of the exhibit.

Q. This exhibit shows briefly that on a car of steel moving from Chicago to Wahpeton, where the haul from Chicago was to the Twin Cities and then to destination, the car earns $61.76 more, en route to Wahpeton, than it did when it stopped at the Twin Cities.

A. Yes.

Q. That abnormality of rates has been brought about by the revision of the column 32½ basis so far as the Chicago-Twin Cities rates are concerned?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Take up page 31.

A. The scales of rates shown on page 31 are the various Western Trunk Line scales and Central Freight Association or the Eastern appendix E scale as compared with the North Dakota single line distributing scale.

Q. This page briefly shows that the present North Dakota intrastate rates for 150 miles or less are lower than the [fol. 2159] appendix E scale under the Docket 15879 decision?

A. That is right. The rates on this page do not reflect the 6 per cent increase granted in Ex Parte 148.

Q. In either comparison, with the North Dakota rates or with the Official scale rates?

A. That is right.

Q. Take up pages——

A. However, while the North Dakota Commission subsequent to a hearing related to the Ex Parte 123 proceeding, granted the carriers an increase of 10 per cent in their class rates, no increases were taken with respect to less than carload traffic.

Chairman Aitchison: Let me ask one question about these distributing rates.

By Chairman Aitchison:

Q. North Dakota still has a practice of putting a lower scale of class rates in from certain points designated as distributing points?

A. They are still published, Mr. Chairman.

Q. In that way?

A. In that way.

Q. Not for general application?

A. No.

By Mr. Williams:

Q. Mr. Agrey, just to clear the record up, the North Dakota distributing scale is a scale applicable from and to some 14 named jobbing points, North Dakota intra-[fol. 2160] state?

A. There are 18 jobbing points, I believe.

Chairman Aitchison: Does the rest of the state tolerate that?

The Witness: There has not been any objection, and furthermore, the class scales were before the Commission in 1929, but have not been since that time. There is an application pending before the Commission, but it has not been pressed by the parties filing it.

By Chairman Aitchison:

Q. If you were going to move—by the way, do you live in one of these distributing towns?

A. I happen to live in one of the distributing towns, yes, sir.

Chairman Aitchison: Yes. You happen to.

By Chairman Aitchison:

Q. Now, to some other non-distributing point in North Dakota your household goods would take first class, would they not?

A. That is correct.

Q. Under this distributing scale.

A. That is right.

Q. But if a man in a small town wanted to move into this distributing point, he would pay a higher rate, would he not?

A. No.

Q. Why not?

A. They are between. They apply as between rates.

[fol. 2161] Q. Do they not govern also a good many movements at intermediate points, or do you have fourth section relief for that?

A. There can be no violation of the fourth section in—I mean, the Commission cannot grant any relief from the fourth section under the North Dakota law.

Q. Then these rates must control the intermediate rates?

A. That is correct.

Chairman Aitchison: Proceed.

By Mr. Williams:

Q. Mr. Agrey, these are the rates prescribed by the North Dakota Commission in the Docket 2255 case?

A. That is correct.

Q. Increased in Ex Parte 123?

A. Authority was permitted the carriers to increase the rates 10 per cent in a proceeding which was related to Ex Parte 123, as I stated before, but the carriers with respect to less than carload traffic did not do so.

Q. They did not take the increase?

A. That is right.

Q. Have they taken the 6 per cent increase recently granted in those rates?

A. They have.

Q. Now, Mr. Agrey, will you——

Chairman Aitchison: Just a minute, please.

[fol. 2162] Mr. Williams: Pardon me.

Chairman Aitchison: Before North Dakota comes here and asks for uniformity in the rate scale, why doesn't she clean her own house?

The Witness: She might do that.

By Mr. Williams:

Q. Mr. Agrey, would you think it proper for the North Dakota Commission to just issue a farte blanc order directing these railroads to advance their rates over and above the maximum rates which the railroads are seeking?

A. No.

Q. Would that be good regulation?

A. I do not believe so.

Q. In other words, the railroads have not sought any increase in these North Dakota intrastate rates other than the Ex Parte 148 increase, is that true?

Chairman Aitchison: They are not seeking to change those rates in this case, either.

Mr. Williams: We are speaking for North Dakota, Mr. Chairman. We are very thankful that they did not seek an increase in the intrastate distributing rates withn our state. We know from our experience that the truck competition and competition of the private hauler would not permit them to advance these rates, and I think that will be apparent from this witness' testimony, if you will permit us to proceed.

[fol. 2163] By Chairman Aitchison:

Q. Proportionately how much of your intrastate tonnage moves on these so-called distributing class rates as compared to the proportion that moves on class rates of the normal amount?

Mr. Williams: Are you asking me that, Mr. Chairman?

Chairman Aitchison: I am asking the witness.

Mr. Williams: I would say in answer to that question——

Chairman Aitchison: Just a minute, Mr. Williams. I am asking the witness the question.

The Witness: I do not have any specific information on that, but from a general observation and living within the state since about 1919, I would say that most of it moves under the class rates.

By Chairman Aitchison:

Q. Most of it moves under the distributing rates?

A. That is right.

Q. Then it would be a matter of simply bringing the remaining rates down to the distributing rates and perhaps making a very slight advance in the distributing rates and you could get uniformity, could you not?

A. That is correct.

Chairman Aitchison: Proceed.

By Mr. Williams:

Q. Now, Mr. Agrey, with respect to these distributing rates we are talking about, they are governed by the Western Classification, are they not?

[fol. 2164] A. They are.

Q. Are there exceptions to those distributing rates in the large number of instances that exceptions generally prevail throughout the Western District?

A. I will call attention to that later on in my exhibit.

Q. Proceed.

A. These rates in North Dakota shown on page 31 also include the pickup and delivery services, or the allowances in lieu thereof. The level of the North Dakota scale has not necessitated the publication by the carriers of an extensive line of exception ratings such as has been done on interstate traffic. Most of these exceptions are shown on pages 32 and 33, and are compared with ratings in the classification and exceptions applicable on interstate traffic as published in Western Trunk Line Tariff 25-C, Agent L. E. Kipp's I. C. C. No. A-3411.

Q. If I understand correctly, Mr. Agrey, pages 32 and 33 simply indicate the very limited number of exceptions to the Western Classification ratings applicable North Dakota intrastate?

A. That is right.

Q. Take up page 34.

A. The prescribed class rates into Montana do not move a large part of the traffic that normally moves on class rates, and should, therefore, be given little consideration in fixing [fol. 2165] the rates to western North Dakota. The basis of less than carload and volume rates maintained today between the Twin Cities, Minnesota, and various North Dakota points on the one hand, and Montana points on the other, is shown on page 34 and subsequent pages. The rates are published as commodity rates but a glance at page 35 will indicate the tie-in to the classification. The same page indicates exception ratings provided as compared with those in the Western Classification. The descriptions are general in nature and not in the detail provided in the tariff.

Q. Have you anything to say with reference to pages 36 and 37?

A. A more elaborate and relatively lower truck competitive adjustment is maintained from western North Dakota to Montana, and is shown on pages 36 and 37.

Q. What does page 38 show, pages 38 through 43?

A. First, with respect to page No. 35, there should be a correction made.

Q. All right.

A. The numbers 25 and 26 should be changed to "34".

Mr. Williams: May we make that correction, Mr. Commissioner, on page 35? Where is says, "List of exceptions ratings applicable in connection with rates shown on pages Nos. 25 and 26", that should be changed to "No. 34".

Chairman Aitchison: Very well.

[fol. 2166] By Mr. Williams:

Q. Take up pages 38 to 43 of your exhibit, please, Mr. Agrey.

A. The ratings provided in connection with these rates as taken from a representative tariff published by the Great Northern Railway Company are compared to ratings provided in the Western Classification and are shown on pages 38 to 43 inclusive.

Q. The Great Northern tariff is G. F. O. 3526-D I. C. C. A-8008, is it not?

A. That is correct.

Q. Go ahead.

A. Group J corresponds to first class and group M to fourth class in the Western Classification. I have not attempted to show here commodities taking K and L rates which correspond to classes 2 and 3, believing it would only add bulk to the exhibit without serving any substantially useful purpose.

Q. Take up pages 44, 45 and 46. What do they show?

A. Pages 44, 45 and 46 show truck routes in existence in 1936. Since that time there have been changes but not of a substantial nature. In North Dakota, the operations of the authorized fixed route common carriers are more comprehensive than in 1936. In so far as irregular route common carriers are concerned, their numbers have increased.

No information is available as to the scope of operations [fol. 2167] of private motor carriers. I do know, however, from observation that concerns such as Red Owl Stores, Winston-Newell, Gamble-Skogmo, and many others have instituted in recent years their own motor carrier operations.

Q. Can you say whether or not that situation as to the private truck hauler largely contributes to the railroads' attitude in connection with the maintenance of the North Dakota so-called jobbing rates?

A. I believe that has an influence on it.

Q. Take up the balance of your exhibit. It is practically self-explanatory, is it not?

A. That is correct.

Q. Have you any statement to make as to the position of the North Dakota interests in this proceeding?

A. Yes. I wish to state that the North Dakota interests for whom I appear subscribe to the position of the Southeastern traffic witnesses, that one level of uniform rates and ratings should be prescribed in the territory on and east of the Mississippi River. We, however, go one step further and request the Commission to prescribe this level from and to all points in North Dakota east of the Montana-North Dakota state line.

The present North Dakota intrastate rates are lower than the Official Appendix E scale for distances 150 miles and less and include pickup and delivery service or an allowance [fol. 2168] in lieu thereof.

Q. What is that allowance?

A. It is 5 cents for a pickup and 5 cents for a delivery in each instance.

Q. Proceed.

A. This rate adjustment applies throughout the state and accords such jobbing cities as Minot, Williston, Bismarck, Dickinson and Beach a basis of class rates to all of their respective jobbing territories contiguous to them in North Dakota less than the Official Appendix E scale.

Q. What is your solution to that problem?

A. We have no objection to the extension of this Official Appendix E Scale intra- or interterritorially as a solution to this problem.

Q. Does that complete your testimony, Mr. Agrey?

A. That is all I have.

Q. Did you prepare exhibit No. 107, or was the same prepared under your supervision and direction and is the same true and correct to the best of your knowledge and belief?

A. It was compiled under my supervision or direction and is true and correct to the best of my knowledge and belief.

Mr. Williams: We offer in evidence Exhibit No. 107, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit No. 107? (No response.)

[fol. 2169] Without objection, it is received.

(Exhibit No. 107, Witness Agrey, received in evidence.)

Mr. Williams: You may cross-examine.

Mr. Olson: I have no cross-examination. I believe my colleagues have some questions.

Mr. Plunkett: I would like to ask a question or two.

Chairman Aitchison: Mr. Plunkett.

Cross-examination.

By Mr. Plunkett:

Q. Mr. Agrey, you spoke about the fact that the North Dakota railroads did not take advantage of the authority that had been given them to increase their class rates following Ex Parte 123 and Ex Parte 148. Now, is it not a fact that——

Mr. Williams: Pardon me, if I may interrupt, to straighten out the record. Not 148. That was 123, in connection with which he made that statement, but not 148. The 148 increases are already in.

Mr. Plunkett: All right. 123.

By Mr. Plunkett:

Q. Is it not a fact that the North Dakota Commission refused to permit the motor carriers in North Dakota to increase their class rates following Ex Parte 123?

A. No. I will say this, that the North Dakota Commission refused to grant the motor carriers an increase of 10 per cent, but they did permit them an increase ranging up to as high as 5 per cent.

[fol. 2170] Q. Did they make those increases?

A. They did not take them because neither the railroads took them nor the motor carriers took them. Why, I do not know. I do not know who was responsible, but nevertheless they were not published.

Q. At any rate, it was the competition with the motor carriers that made it impossible for the railroad companies to take advantage of the authority that had been given them?

A. You mean, the regulated motor carriers?

Q. Yes.

A. I do not know. They could have published increased rates. They were granted authority.

Q. Now, you subscribe to the position of the Southeastern shippers to the effect that one scale of rates can be applied east of the Mississippi River and you extend it also to apply to and from North Dakota, is that right?

A. A uniform scale, yes.

Q. A uniform scale.

A. Yes.

Q. Did you include in that the intrastate rates in North Dakota?

A. I would be willing to go along on that.

Q. Now, in view of that proposal, what is the significance of that part of your exhibit dealing with motor carriers and the routes that have been authorized? Do you mean by that, [fol. 2171] that this Commission should give consideration to the motor carriers in North Dakota in fixing a uniform level of rates?

A. No, no. It is the competitive factor, that is all. Furthermore, the class rates as such have not been able to move the traffic.

Q. Do you believe that this Commission should give consideration to motor carriers in fixing this uniform level of rates that you want the Commission to adopt?

A. I have not given any thought to that because it is not involved in this hearing, as I understand it.

Q. I thought you had some purpose in including that showing in your exhibit.

A. I believe uniformity is proper for motor carriers as well as for railcarriers, as far as that goes.

Q. But you do not ask this Commission to give consideration to the competition with motor carriers that exists in North Dakota?

A. The Interstate Commerce Commission?

Q. Yes.

A. If it is a competitive factor, yes.

Q. As a competitive factor?

A. Yes.

Q. Suppose that the competitive factor you speak of were different in different parts of this territory. Would you expect the Commission to still make a uniform scale [fol. 2172] throughout the territory?

A. Of course, I do not believe uniformity can be precisely achieved, or ever achieved as such; but I believe we can strive for it and come closer to it than we are now.

Q. North Dakota originates principally products of the farm, is that right?

A. That is correct.

Q. And lignite coal.

A. That is right.

Q. Those two items make up about 97 per cent of the traffic originated by North Dakota?

A. I doubt if the tonnage is that great. The proportion of tonage is shown on the last two pages of the exhibit.

Q. I took it from the last page of your Exhibit 107 for the year 1941.

A. That was terminated, the last page. Page 57.

Q. The next to the last page.

A. That is right.

Q. So that only about 2 or 3 per cent of the traffic originated in North Dakota moves on class rates?

A. Originated?

Q. Yes.

A. Yes. That would be about correct.

Q. Your chief interest is in the rates on agricultural products and on lignite coal, is that right?

[fol. 2173] A. Well, I think the previous witness illustrated that there has not been much money in agriculture. We have a one-industry state. We are, of course, subject to any calamity or condition that may affect it. What we are trying to obtain is some additional industry in the state so there will be some balance within reason.

Q. Would the reduction of the class rates from Chicago and from Eastern territory to your territory aid in building up the industries in North Dakota?

A. In the interest of uniformity, of course it should apply in both directions.

Mr. Plunkett: That is all.

The Witness: We could also go into their territory just as well as they could go into ours.

Mr. Plunkett: That is all.

Mr. Williams: Mr. Chairman, I purposely refrained from having the witness explain the last pages of our exhibit so as to save time. Mr. Plunkett's cross-examination has been primarily concerned with that section of our exhibit.

Redirect examination.

By Mr. Williams:

Q. Mr. Agrey, dealing with this motor truck situation as illustrated on pages 44 and 45, I believe, of your exhibit, the purpose of showing that is to indicate to the Commission the tremendous development in the motor carriers both common and contract, North Dakota intrastate, since the [fol. 2174] Commission's decision in the 17000 Part 2 case?

A. Oh, yes. There has been an incentive to operate motor trucks, not only common carrier but of course private carrier, which is becoming a greater factor now than ever before.

Q. Have you an opinion to express as a traffic expert, as to whether or not the motor trucks operating from the Twin Cities and Duluth into North Dakota, applying as they do the full 17000 Part 2 scale of rates, are waxing plenty fat in our territory?

A. I did not get the last part of the question.

Mr. Williams: Read the question.

Chairman Aitchison: I did not hear it either, Mr. Williams.

Mr. Williams: I said, have you an opinion—

Chairman Aitchison: Just the last part.

By Mr. Williams:

Q. Have they been waxing plenty fat out of those high rates from the Twin Cities and Duluth into our territory?

A. Their earnings are averaging relatively high, or their profits.

Q. Can you say whether or not that was the reason for denying them the increase in North Dakota intrastate following the Ex Parte 123 case, their wonderful financial position?

A. Their financial position was very good.

Mr. Williams: Thank you.

[fol. 2175] Chairman Aitchison: Are there any other questions of this witness? (No response.) You may stand aside.

(Witness excused.)

Mr. Williams: That is all we have. Thank you for the courtesy which you have extended us, Mr. Chairman.

Chairman Aitchison: Is there any further testimony to be produced at this time? (No response.) We will recess until November 16, 1942, at 10 o'clock A. M., Eastern War Time, at the Hotel Deshler, Columbus, Ohio.

(At 12:45 P. M., October 1, 1942, adjourned until November 16, 1942, at 10 o'clock A. M., Eastern War Time, at the Hotel Deshler, Columbus, Ohio.)

[fol. 2176] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 28300

CLASS RATE INVESTIGATION, 1939

Docket No. 28310

CONSOLIDATION FREIGHT CLASSIFICATION

Hotel Deshler,
Columbus, Ohio,
November 16th, 1942.

Met, pursuant to adjournment, at 10:00 o'clock a. m.

Before Division-2 of the Commission.

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner,

Hon J. Haden Alldredge, Commission,

and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by:

Mr. John J. Murphy, South Dakota Public Utilities Commission;

Mr. George McConnaughy, Public Utilities Commission of Ohio; and

Mr. W. H. Scott, South Carolina Public Service Commission.

Present Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

APPEARANCES:

As heretofore noted and the following additional:

[fols. 2177-2178] Rupert L. Murphy, 940 Citizens and Southern Bank Building, Atlanta, Georgia, appearing for Georgia-Alabama Textile Traffic Association.

J. H. Tedrow, Care Chamber of Commerce, Kansas City, Missouri, appearing for Kansas City Chamber of Commerce, Kansas City, Missouri.

[fol. 2179] PROCEEDINGS

Chairman Aitchison: We will resume the hearing. It would very greatly facilitate our work this week if the gentlemen who expect to testify would take advantage of the long lunch hour that we are going to be compelled to take today, to see Mr. Koebel, and give him an estimate of the time that you expect to consume, or that you expect your witnesses to consume, the names of the witnesses, and so forth. That will enable us to map out at least some sort of a program. The understanding has been that the Commission was to receive 68 copies of exhibits, for its use and that of the State Commissions. That may seem like a rather large number, but by far the greater part are for the use of the State Commissions throughout the country. The 53 copies which we want to take back to Washington with us, we will appreciate if you will securely tie up and deliver to Room 229 on this floor, adjoining the hearing room, where [fol. 2180] the rail carriers are assembling their exhibits; and the 15 copies for our own use can be delivered to Mr. Koebel at the desk here. Are there any preliminary matters to be taken up at this time?

Mr. Hughes: Mr. Chairman.

Chairman Aitchison: Mr. Hughes.

Mr. Hughes: It has been indicated by different witnesses that there might be definite proposals made later for a readjustment of the class rates that are in issue in this proceeding. I have in mind in particular the statement of Witness J. C. Murray, of the Southwestern interests; when, at the conclusion of his testimony, he said in substance that those interests were not prepared at that time to indicate what the proposed readjustment should be, but that they expected to do so later, and perhaps they might include that in the brief. It seems to me that the mere statement that proposition condemns it as unfair, as failing to give to the parties the major and central case which they are presenting. With all briefs due on the same date, we are placed in the position of having no knowledge of what such specific proposals may be; we will not have any opportunity to dissect them; we will have no opportunity to discuss

whether or not the evidence supports them; and we will therefore be in the dark until after the briefs have been filed, and particularly the rail carriers' briefs. Although [fol. 2181] I am now speaking specifically for the Western Carriers, I think that the idea which I am presenting should appeal to everyone who is entitled to know the full length and measure of the case, as presented by any interest; and I should like to ask the Commission to rule that anyone having any such definite proposals shall present them at this hearing, during the course of the hearing, but prior to the introduction of rebuttal testimony.

Chairman Aitchison: Well, of course, Mr. Hughes, we cannot anticipate any difficulty until it arrives. Is there anything further of a preliminary character, gentlemen?

Mr. Hughes: If the Chairman please, is it the position of the Bench, then, that no ruling will be made on this matter?

Chairman Aitchison: Not at this moment, sir.

Mr. Hughes: Thank you.

Chairman Aitchison: We have pending before us the offer of Exhibits 11 and 12, of Witness Ford K. Edwards. Mr. McCollester objected, possibly somewhat tentatively, to the admissibility of those exhibits. I do not understand whether Mr. McCollester completed his objection or not. He may not have had sufficient opportunity at the time at least to examine the exhibits, or the basic data.

Mr. McCollester: If the Commission please.

Chairman Aitchison: Mr. McCollester.

[fol. 2182] Mr. McCollester: I do not have my copies of the exhibits referred to with me in the hearing room here just at the moment. They are up in my room. My objection to the exhibits, which was with respect to our having afforded to us an opportunity to examine the basic data thereof, I will withdraw at this time, because we have now had the opportunity to examine the basic data, and we have had very courteous cooperation from Dr. Edwards in that regard. There were some portions of Exhibit No. 12, however, to which I objected, on the ground that those portions constituted expressions of opinion by others not available here for cross examination, and were argumentative, and not properly to be considered as testimony before the Commission in the absence of those who were purported to have made those statements. I shall insist on my objection to those portions of the exhibit, and if the Commission

desires that I be more specific, I shall be glad to do so at a later time. I have my memorandum prepared on those objections, but it is not in the hearing room just at the moment.

Chairman Aitchison: Are you able, Mr. McCollester, from looking at the quotations and the sources, to tell whether or not the men quoted are eminent in their profession, and recognized as authorities?

Mr. McCollester: Well, Mr. Chairman, most of the gentlemen I know by name, but even so, as I understand it, while [fol. 2183] that might justify reference to the writings of these gentlemen on argument and brief, it certainly would not justify the inclusion of their expressions of opinion, as opinion testimony in this proceeding. I do not have my notes with me here, so I am not able to be any more specific just at moment, but I will be very glad to do so at a later time, if the Commission desires.

Chairman Aitchison: What I want to know is when you get done making your objection.

Mr. McCollester: I am very sorry, your Honor, but I could not hear that.

Commissioner Aitchison: I say, what I want to know is when you have completed making your objection.

Mr. McCollester: Whenever you want me to, your Honor, I will be done. I will finish the very next time you ask me about it, if you will let me have until I can get my notes, before you ask me again.

Chairman Aitchison: Very well.

Mr. Hughes: There is just one further point, if the Commission please. In the transcript of proceedings for September 25th, 1942, I notice that while Vivian's Exhibit No. 67 is shown as having been offered and received, the companion exhibit, No. 66, is not so shown. I should like to ask at this time that Vivian's Exhibit 66 be shown, nunc pro tunc as having been offered and received.

[fol. 2184] Chairman Aitchison: It will be received now.

(Exhibit 66, Witness Vivian, received in evidence.)

Chairman Aitchison: I think, now, gentlemen, that cleans up the matters that were left in abeyance from the last hearing. Mr. Smelker, do you wish to recall Dr. Edwards at this time?

Mr. Smelker: If the Commission please, Dr. Edwards is ready for further cross-examination at this time, but not for final direct examination.

Chairman Aitchison: Not for final direct examination, did you say?

Mr. Smelker: Or rebuttal, then, if you want to call it rebuttal.

Chairman Aitchison: Dr. Edwards is ready to be recalled for further cross examination, gentlemen. Does anyone care to cross examine him?

Mr. Plunkett: Yes, your Honor.

Chairman Aitchison: Very well. Take the stand, then, Doctor.

FORD K. EDWARDS recalled:

Cross-examination (Continued):

Mr. Plunkett: First, if the Commission please, may I inquire regarding Exhibits 11 and 12, as to their having [fol. 2185] been received in evidence.

Chairman Aitchison: They have not been received.

Mr. Plunkett: Thank you.

By Mr. Plunkett:

Q. Dr. Edwards, will you turn first to your Exhibit No. 10, please.

A. Yes.

Q. On page 1 of that exhibit you state: "If the railways of the United States were operated as one system the problem of standardizing rate levels and the classification of freight would be considerably simplified, although the problem of adjusting rates to costs would not be eliminated."

A. Yes.

Q. What did you mean by your reference to standardizing rate levels, in that connection?

A. I meant the application of a uniform rate structure.

Q. One rate level?

A. Yes.

Q. Throughout the United States?

A. Yes, sir.

Q. Now, do you mean that you would disregard the relative costs in the various parts of the United States, or would you adjust the rates to the relative costs?

A. In making that statement I did not specifically contemplate any national uniform rate structure. The point intended was that if all of the railroads consisted of only [fol. 2186] one system, the problem of equalizing rates would be very greatly simplified, for the reason that any losses that might occur on one part of the system might be made up by a greater profit on other parts of the system.

Q. Well, did you give any consideration to the necessity that might exist on the part of the railroads to meet motor truck or water competition, in one part of the country, which would not exist in another part of the country?

A. Not specifically, no.

Q. Well even though all of the railroads of the United States were combined into one system, that situation would still exist, would it not?

A. Yes.

Q .Did you give any consideration to the fact that some communities are located a long way from consuming markets, and might therefore have to have a relatively lower level of rates in order to enable them to compete with those communities located nearer to those markets?

A. I gave no specific consideration to those individual problems, no, sir.

Q. But those situations would exist, even though there was but one system of railroads throughout the country, would they not?

A. Yes.

Q. Now, Doctor, what do you mean by the "interritorial [fol. 2187] interest" of the carriers, as you have used that expression in your Exhibit No. 10?

A. I mean the degree to which the interest of the carriers, expressed in terms of expenses, or expressed in terms of traffic, overlaps the territorial lines, or the territorial boundaries.

Q. And you have attempted to show that in this case in two ways; is that right?

A. Yes.

Q. One, by the use of the distribution of operating expenses.

A. Yes.

Q. And the other, by the relative amount of tonnage originated and terminated in the several territories.

A. Yes, sir.

Q. Now will you turn to table 2, on page 3 of the same exhibit, please.

A. Yes, sir..

Chairman Aitchison: Table 2?

Mr. Plunkett: Yes.

By Mr. Plunkett:

Q. In that table you have included northern Illinois as being in Eastern territory; is that right?

A. Yes, sir.

Q. So that you have shown that the Chicago Great Western Railroad had a 35 per cent interest in Eastern territory, and a 65 per cent interest in Western Trunk Line territory; [fol. 2188] is that correct?

A. Yes, sir.

Q. Now in your Exhibits 2 and 3, which you introduced at the hearing at St. Louis, Missouri, you treated northern Illinois as common territory, common to Western Trunk Line territory and to Eastern territory, did you not?

A. Yes, sir, that is true, it was included with both, under the alternative showing.

Q. But you did not do that in this Exhibit No. 10, did you?

A. No.

Q. The freight operating expenses in that territory include the linehaul as well as the terminal, do they?

A. Yes, sir.

Q. Now turn to table No. 3, please.

A. Yes, sir.

Q. There you have shown the sum of the tonnage originated and terminated by the various railroads in the several territories; is that right?

A. Yes, sir.

Q. Now, the way you have made up this exhibit, if a railroad originated all of its traffic in California, and terminated all of its traffic in northern Illinois, you show that it had a 50 per cent interest in Mountain-Pacific territory, and a 50 per cent interest in Eastern territory; is that right?

[fol. 2189] A. Yes, sir.

Q. And you would not show any interest at all in Western Truck Line territory?

A. Your statement is correct.

Q. You would not?

A. No, sir.

Q. Now, at the bottom of page 7, in the same table——

A. Where?

Q. Rather—pardon me—at the bottom of page 11, you show that the Great Northern Railway had a 64 per cent interest in the State of Minnesota.

A. Yes.

Q. Was that brought about by the heavy movement of iron ore that originates in Minnesota?

A. That is probably correct, yes, sir.

Q. Some 20,000,000 tons having moved in 1940, I believe.

A. Yes, sir. That iron ore movement undoubtedly accounts for that high percentage.

Q. You do not show that tonnage as having terminated in Wisconsin, do you?

A. Pardon me?

Mr. Plunkett: Read the question, please.

(Question read.)

A. No.

By Mr. Plunkett:

Q. Is it not true, Doctor, that all of that tonnage origi-
[fol. 2190] nated by the Great Northern Railway terminated at the docks at Superior, Wisconsin?

A. I will accept your statement for that.

Q. I take it the reason why you have omitted that here was because it is shown as having been delivered to other carriers at that point.

A. Yes.

Q. Now, will you turn to your Exhibit No. 11, please.

A. Yes, sir.

Q. On page 1 of that exhibit you state that the purpose of chapter 1 of the exhibit is to determine what changes, if any, have occurred in the relative costs for the respective territories between 1931 and 1941; that is correct, is it not?

A. Yes, sir.

Q. And for that purpose you have prepared table No. 1, showing a comparison between the unit expenses for 1941 and those for 1939; is that correct?

A. Yes.

Q. That table shows in column 1, Transportation Expenses, very little change between 1941 and 1939, in unit costs, does it not?

A. Yes.

Q. Now is that not what we would expect to find in connection with Transportation Running Expenses, which vary [fol. 2191] directly, or almost directly, with the traffic?

A. Yes, that is pretty generally true.

Q. And is that not also true, although to a somewhat lesser extent, with respect to Yard Expenses, column 3?

A. Yes.

Q. Yes.

Q. But when we get to Maintenance of Way Expenses, or Total Expenses, which would include overhead, there is a greater variation than there is with the Transportation Expenses; is that right?

A. (No answer.)

Mr. Smelker: Do you understand that question, Doctor?

The Witness: I do not believe I entirely followed it, no, sir.

Mr. Smelker: Will you read it, please, Mr. Reporter.

(Question read.)

A. I would say that there is, yes, that there has been a greater variation in unit costs.

By Mr. Plunkett:

Q. Now, table No. 1 deals only with operating expenses; is that right?

A. Yes, sir.

Q. You have not included rents, or taxes, or return on valuation there, have you?

A. No, sir.

Q. Is it not true that operating expenses represent only [fol. 2192] about two-thirds of the total expenses, including return on valuation, rents and taxes?

A. Did you say, including rents and taxes?

Q. Yes—and return on valuation.

A. Somewhere around that percentage, yes.

Q. So that table 1, then, does not show the variation in the total unit costs, including return on valuation, between 1941 and 1939, does it?

A. That is right.

Q. And that is where you would expect to find the largest variation, is it not, because of the fixed character of the overhead expenses, which would result in a lower cost per

unit of traffic, in the case of high traffic, and a higher cost per unit of low traffic?

A. Yes, sir, that is where we would expect to find the greatest variation in the unit costs.

Q. Yes.

A. However, we did not include the return on value, because we did not anticipate that the value of the carriers would change substantially between 1939 and 1941.

Q. Now, how do you account for the very large change in column 2, Station and Platform Expenses? It seems to be out of proportion to the other columns.

A. Part of that is due to an adjustment in wage levels for station employees, and inasmuch as there is not the oppor- [fol. 2193] tunity to benefit, under the law of increasing returns, in station work, the cost would tend to rise more nearly in proportion to any change in the expenses.

Q. Well now, did you not compile column 2 in a different manner, in table No. 1, from what you did in your Exhibits 2 and 3?

A. Yes. In this table column 2 was computed by reference to certain labor schedules in the annual reports, while the actual study was based to a large degree on data furnished by the carriers. However, in referring to the year 1939 and the year 1941, we have used the same basis of computation for both years, so that the figures would be comparable. In other words, the data for the year 1939, and all of the data in this table, were drawn from a new computation, from the annual reports, and not from the original 1939 data that we used, in order that there would be a comparison of like with like.

Q. Now in chapter 2 of Exhibit 11 you deal with the relative weighting of various classes of freight, as you used them in your Exhibit No. 3; is that right?

A. Yes, sir.

Chairman Aitchison: I just want to call your attention, Mr. Plunkett, to the fact that Exhibit No. 11 has not as yet been received. Therefore your examination at this particular stage, strictly speaking, should be confined to mat- [fol. 2194] ters which may lead up to a further objection to the exhibit.

Mr. Plunkett: That is why I inquired at the beginning, if the Chairman please, whether I should go ahead as though Exhibits 11 and 12 had been received, or not.

Chairman Aitchison: Well, it is a little bit difficult for us, of course, to deal with an objection which has been pending now for about six weeks, and which apparently has not yet been completed.

Mr. Plunkett: If you prefer to have me do so, your Honor, I will withhold any further questioning, outside of that specific matter.

Mr. McCollester: If it will help to simplify matters any, Mr. Chairman, I will withdraw my objection.

Chairman Aitchison: Very well. Then Exhibit No. 11 will be received, and Exhibit 12 also.

(Exhibits 11 and 12, Witness Edwards, received in evidence.)

Chairman Aitchison: Proceed.

By Mr. Plunkett:

Q. Now, Dr. Edwards, in your Exhibits 2 and 3, is it true that you asume that an intertrain switch of a car is equal to 25 per cent of the car originating and terminating?

A. No, sir, you have not stated that quite correctly. The factor of .25 is correct. In other words, to clarify the [fol. 2195] record, we assumed that the relative cost of switching a car one way, in intertrain or intratrain switching, was equal to 25 per cent of the cost of a one-way switch in terminal and connectional terminal switching.

Q. And likewise you assumed that a car interchange—or rather the cost of interchanging a car was equal to 45 per cent of the cost of originating or terminating the car; is that correct?

A. Well, equal to the cost of the one-way movement of originating or terminating the car, yes, sir; or in other words, the switch in either the loaded or empty direction, but not both.

Q. If you had included it in both, would you then get the same result?

A. No, sir, you would not, because the industry car receives close to 100 per cent empty return in its switch, while the interchange car receives an empty return of about 60 per cent.

Q. Table 4 of your Exhibit No. 11 was designed to compare the percentages which you assumed in your Exhibit No. 3, with the results of the study in the Automobile Investigation, Docket 28190; is that correct?

A. Yes, sir.

Q. Do you think that the results in the Automobile Case would represent the average of the results that you would obtain if you studied the switching of all commodities?

[fol. 2196] Chairman Aitchison: We of course do not have that study before us.

Mr. Plunkett: Well, the witness has used it, if the Chairman please, in his Exhibit No. 11, and I just wanted to inquire whether or not he thought he had made a valid use of it.

Chairman Aitchison: That is going pretty far, referring to some other study which was made in another case, and is not before us here.

Mr. Plunkett: If the Chairman please, Dr. Edwards has shown in his Exhibit No. 11 the results of the cost study which was made in the Automobile Case, compared with the results which he has shown in his Exhibit 3, in connection with the various assumptions that he has made in Exhibit 3.

Chairman Aitchison: Very well.

The Witness: What is the question?

Mr. Plunkett: Will you read it, please.

(Question read.)

A. Are you referring to the switching and terminal costs now, or just the switching cost?

By Mr. Plunkett:

Q. Well, I am referring now to the originating and terminating cost which you have used, and the intertrain and interchange cost which you have used in your Exhibit 11.

A. As to the automobile traffic we did not know whether [fol. 2197] the precise switching cost, terminal switching cost, would be greater or less, until we made an analysis of all of our studies. The results indicate that there is not a great deal of difference. We had the thought that in the Automobile Case the cost of switching might be less than the territorial average, for the reason that some of the cuts, particularly at the origin points, automobile origin points, are relatively large. On the other hand, apparently the terminating points are located at cities which are of substantial and large size, where a good deal of switching is required. Apparently those two about offset each other. In any event, the switching minutes in the Automobile Case were not very

far different from the equated minutes that we developed for all traffic, upon a territorial average basis.

Q. Well, is it not true that the switching study in the Automobile Case was made only at a relatively small number of points in the United States?

A. The points covered by the automobile study were relatively large. I think that there were about 400 points in the United States, for which the carriers provided switching data. That is, I think, a very broad and extensive coverage.

Q. Is it not true, Dr. Edwards, that the carriers were given the option in the Automobile Case of either making a [fol. 2198] switching study, or using the results of some older studies that they might have?

A. That is true, yes, sir, with this qualification, that the study would be believed by the carriers to be representative at the points at which it was used.

Q. Do you know whether or not all of them made new studies, or did some of them use older studies?

A. I do not know definitely as to all of them, but I do know that a very large number of carriers made studies for the purpose of that case,—I believe the majority of them.

Q. If a carrier made a special study for the Automobile Case, it would show the number of minutes required to originate or terminate a car of automobiles, and the number of minutes that it took to make an intertrain movement, or an interchange; is that right?

A. Yes.

Q. Would there not be, and were there not, in fact, large difference between the number of minutes shown by the various carriers?

A. Yes, sir—there were differences as between the carriers, and there were differences as between points.

Q. Yes.

A. Some of the destination points, as I stated before, were large cities, and others were small way points.

Q. But there would be a large variation between the [fol. 2199] railroads and a variation between different points on the same railroad, would there not?

A. There would be a difference between points on the same railroad, yes, sir—if that is your question.

Q. Yes.

A. That is right.

Q. Well then, the relationship between the results in the Automobile Case, and the assumptions which you have made in your Exhibit No. 3, is only accidental, is it not?

A. No, sir, it is not. The assumptions which were made in Exhibit No. 3 here, dealt with territorial average conditions. The switching minutes at Chicago, for example, may be 60 minutes per car, while at Podunkville they might be only ten minutes per car. We were interested in territorial average conditions, and our studies in Exhibit No. 3 were so based. In the Automobile Case we likewise had a wide range of points. We endeavored to reflect the average situation.

Q. Part of chapter 2 of your Exhibit No. 11 also deals with the percentage of circuity. Here again is it not true that you took the percentage of circuity that you found in the Automobile Case, and assumed that that represented the average circuity in the movement of all traffic?

A. We offered the circuity in the Automobile Case for what it might be worth; in other words, as the circuity that existed on the automobile traffic. However, it was our [fol. 2200] belief that the circuity that would exist on about 50,000 cars of automobiles moving between widely separated points, in all parts of the United States, should be a somewhat fair indication of the circuity on other traffic.

Q. It would not represent the circuity, however, on any particular traffic, would it?

A. No.

Q. Pages 34 to 61 of Exhibit No. 11 deal with the relative cost of transporting traffic in heavy and light trains. As I understand the exhibit, you conclude that the difference between the cost of transporting traffic in the two kinds of trains is not of great importance; is that correct?

A. Well, I show the percentages there, of course.

Q. Now, now here in your Exhibit No. 3, or in your Exhibit No. 13, which you introduced at the hearing at Indianapolis, do you have any cost figures that would show the cost of moving traffic in a given train. You did not use the train as the unit in any of those computations, did you?

A. No, sir—not in Exhibit 3, nor Exhibit 13, at least.

Q. How?

A. Not in Exhibit 3, or 13.

Q. You used there, the gross ton miles and net ton miles, as units, *do* you not?

A. Yes, sir, that is true, and the effect was to average out all of the trains.

[fol. 2201] Q. Yes. The computations which you have made in your Exhibit No. 11, are necessarily of the same character, are they not,—that is dealing with gross ton miles rather than train cost.

A. The computations in Exhibit 11, covering automobiles and coal, were based upon specific weight trains.

Q. Did you have the cost of operating those trains separately?

A. Yes, sir, we had the separate cost. In the Automobile Case we related the cost to specific weight trains, based on a train-engine mile prorate of engine expense, and engine labor expense, and a train-mile prorate of train car expense; and to that degree it reflected the cost per train, which was the net cost distributed over the specific weight trains in which the automobile traffic moved. In the anthracite cases, the study went further, and drew off the specific wages for the particular trains, which was a further refinement, such cost being distributed over the precise tonnage that moved in those specific trains.

Q. Well of course if you divided your expense, or any part of it, on a train-mile basis, you would consider one train the same as another, would you not,—that is, whether it was a large train, or a small train?

A. Yes, in so far as the train itself is concerned.

Q. Now, will you turn——

[fol. 2202] A. Pardon me. If I may continue——

Q. Go ahead.

A. —I would say that in so far as enginemen and trainmen are concerned, the answer would be "Yes", but in so far as car expenses are concerned, car repairs, and such as that, those were equated to the specific number of cars in the train that we were working with; and the fuel was related to the gross ton miles in the train, so that if we had more cars, we would have more fuel and more freight train car expense charged to the longer train than we would to the shorter train.

Q. Have you completed your answer?

A. Yes, sir.

Q. Will you turn, then, please, Doctor, to your Exhibit No. 12.

A. Yes, sir.

Q. On page 7 of that exhibit you define out-of-pocket cost as that portion of the carriers' expenses which increases or decreases in direct proportion to change in the carriers' traffic. Am I right?

A. Yes, sir.

Q. You say that the portion which is variable depends upon many factors, including the nature of the expense item itself, the extent of the traffic change, the amount of unutilized capacity of the railroad, and whether the study is based upon a short-term or a long-term approach. Is that [fol. 2203] correct?

A. Yes, sir.

Q. Now did you take into consideration, in computing your out-of-pocket expense, the question of whether the given traffic changed to a great extent, or to a small extent?

A. No, sir, we did not. We were working with the average year-to-year change, that carried over a period of years.

Q. Did you take into account the unutilized capacity of the railroad?

A. We took into account the unutilized capacity to the degree that there was unutilized capacity, yes, sir. Perhaps I can explain that by indicating that our out-of-pocket cost studies were largely based of what happened to the expenses over a period of time, when the traffic increased. In other words, we worked with the actual results. If there were no unutilized capacity on one carrier, then to some degree the expense might not have increased in quite the same proportion as it might on another carrier, that did have some unutilized capacity, so I would say, yes, we did give effect to that, because we could not avoid it, working as we were with the actual cost, over a period of years.

Q. Well now, did you take the actual results with respect to Maintenance of Way & Structures, or did you use the engineering formula?

A. We used the view of our engineering section. We [fol. 2204] also work it out actually, but we do use the view of our engineering section, which generally comes out with a substantially lower figure than the actual results.

Q. Well, the engineers' formula was a fixed one, was it not; that did not give any effect to unutilized capacity of any given railroad or group of railroads.

A. That formula reflects the average conditions on an average carrier.

Q. Throughout the United States?

A. Yes.

Q. That is, the average conditions at the time the formula was put out; is that right?

A. Well, it represented average conditions, based on their experience. In other words, when we make a request upon the Engineering Division of the Bureau of Valuation, they go back over a period of time and make an analysis that may run 20 years back; but they figure the cost presumably as of present-day conditions.

Q. Well, do not the engineers say that any factor or percentage of variability of traffic is true only with respect to a given volume of traffic, and if the volume of traffic increases or decreases, your percentage must be changed?

A. Well, the existing volume of traffic goes back again to the unutilized capacity; that is true. However, we were working with the average density of traffic per mile of [fol. 2205] road; and if that density were greatly increased, in other words, if that density were to double tomorrow, say, presumably the out-of-pocket factor would be somewhat different.

Q. Yes.

A. It would be higher.

Q. It would be less, would it not?

A. No, I should say it would be higher.

Q. Now when you came to Transportation Expenses, as I understand it, you used the actual results of operations over a period of years, five or six years; is that correct?

A. Yes, sir. We rounded off the figure that we got, but it is close to what we thought were the actual operating conditions.

Q. Is it not true that the unutilized capacity would vary with various roads?

A. Yes.

Q. And no two roads would have the same unutilized capacity?

A. Yes, sir, that is true, and it will also vary within one road, from division to division, or from terminal to terminal. If they have just completed a big terminal project at one point, and still have some unutilized capacity there, while they have been deferring needed exten-

tions at another terminal, you will find a little less at the latter point.

Q. Would it not vary from year to year, on the same railroad?

[fol. 2206] A. If the traffic goes up or down, it will vary, yes, sir.

Q. And at different points, for the same year, on the same railroad,—will it not?

A. Yes, sir, it will vary, whether you are dealing with a short-term trend or a long-term trend.

Q. Now was your study based upon a short-term approach or a long-term approach?

A. It was based on the long-term approach. I might say also, in qualification of that, it is sometimes a little bit difficult to speak of exactly what is the short-term approach or the long-term approach, because it is hard to divide, or to draw the line in there; but I would say that we were nearer to representing the long-term approach than we were the short-term approach.

Q. Now, Dr. Edwards, in your Exhibit No. 13, which you have described in Exhibit No. 12, you have set up a new basis for out-of-pocket expenses, in which you have included a return on investment. Is that correct?

A. We have used the old basis in so far as operating expenses are concerned, but we have amplified it to include an allowance for the out-of-pocket portion of return on value.

Q. You have included a return on 100 per cent of the equipment and 50 per cent of the roadway; is that right?

A. Yes, sir.

Q. And that is on the theory that the investment in [fol. 2207] equipment of the railroad, or the valuation of the equipment, would vary directly with the volume of traffic, up or down; is that correct?

A. Yes, sir—over a long-term period.

Q. And that the valuation of its roadway property would vary 50 per cent, with change in traffic?

A. Yes, sir—likewise over the long-term period.

Q. Now is it not true that a railroad must provide for the complete peak volume of traffic that it may expect within a reasonable in the future?

A. Yes.

Q. It must provide facilities in the way of equipment, tracks yards, and so forth?

A. Yes, sir, a railroad must always allow for certain reserves, or have certain reserves to take care of its October peak,—if that is what you are referring to.

Q. And having provided for that peak traffic, if the traffic falls considerably below the peak, does it dispense with its equipment or part of its equipment, or part of its roadbed, or roadway?

A. No, sir, it does not dispense with it on a seasonal basis, certainly. On a seasonal basis, that is, from month to month, May versus October, you would not have an expansion or contraction; but for one October versus a long upward trend of peaks, it has to provide for that. As to [fol. 2208] equipment, the response in both maintenance and ownership of equipment, to traffic variations, is very ragged, if you endeavor to plot it out. You may find, and you do find, as a matter of fact, in connection with Maintenance of Equipment, that it represents a 100 per cent variable. Part of that is due to financial policies covering allowances for maintenance. But coming back to the theme of your question, as I understand it, we have, in allowing for a return on value as part of the out-of-pocket cost, considered the long-term trend, and gone back for a period of years, and noted that, as traffic rose, that is, as the volume of traffic rose, the investment in road and investment in equipment rose also. From year to year, and month to month, you may not have, and in fact you will not have, that correlation.

Q Well, the largest volume of traffic handled by the railroads of the United States prior to World War No. 2, was around 1929, was it not?

A. Yes.

Q. Just before the depression began?

A. Yes, sir.

Q. Well now, having provided facilities to handle that traffic, did the railroads then reduce their facilities greatly, in 1932 and 1933?

A. Well, they reduced their investment substantially, yes, sir, by failure to make replacements. In other words, [fol. 2209] a railroad does not necessarily have to reduce its plant. I will put it this way, that by the mere process of not making replacements, the investment in plant might shrink.

Q. Could you say that the investment in equipment varies directly with the traffic?

A. On the downturn, investment in equipment does not vary directly with the traffic, no, sir, because, with the rate of depreciation about 3 per cent, they would write off about 3 per cent per year; in other words, about 3 per cent of the equipment would be written off, or retired, per year. Now, if the traffic drops off 10 per cent in one year, it is obvious that the carrier is not going to retire 10 per cent of its equipment. It will retire 3 per cent, or even less; it will retire something less than 3 per cent. In other words, there is some lag in there. But we have noted that the over-all investment varied between 50 and 70 per cent, with the traffic volume, over a period of time. The year-to-year variations would not be and could not be, responsible.

Q. Well, how many years would you have to consider, in order to be able to say that the equipment varied with traffic? Two or three years?

A. Oh, no; you can take a 10-year period, or you can take a three or four-year period. In Exhibit No. 12, chart 16, opposite page 72, we show the trends. Those trends seem [fol. 2210] to be very responsive. In other words, one might take a four or five-year period, but not the year-by-year response—that is, that cannot be said of the year-by-year response. For example, in 1920 when the carriers had a very sharp loss of traffic; but nevertheless, their ownership of freight train cars and locomotives did not drop, but followed pretty well the trend between 1920 and 1930, and then it started downward, after 1928, or 1929.

Q. Well, would you say, referring to your chart 16, that that chart shows that the investment, or valuation,—investment in equipment or valuation of equipment—varied directly with the traffic? I note that for 1930 to 1932, the traffic dropped from 125 down to 60, and the equipment dropped from 122 down to about 118.

A. May I hear that question again, please.

Mr. Plunkett: Will you read it, please.

(Question read.)

A. It certainly does not follow the year-by-year fluctuation, no, sir. Now, as to the longer-term trend, our use of the factor of 100 per cent variable over the longer

period, was based upon the assumption that railroad management was normally attuning its ownership of equipment to its long-term traffic needs, allowances for peak traffic in October being taken into consideration. In other words, they normally would not buy more equipment than they [fol. 2211] would need, or allow their ownersip of equipment to fall below their needs. Whereas your investment is broken down into a great number of very small units; such as in the case of freight train cars, or locomotives, so that you can attune your ownership of that property more closely to the trend of your needs than you can the trackage or right-of-way itself.

Q. Well, is it not true, Doctor, that when business falls off, the railroads set their locomotives on a sidetrack, under white lead, as they call it, awaiting the return of traffic?

A. Yes, sir, that is true. They do not melt them down, of course. However, with locomotives being depreciated at —I am not just sure of the rate, but, say, 2 or 3 per cent, if the traffic dropped off, they would not go out and purchase new locomotives during that period, unless it was only a very short drop. In other words, if the traffic went down 9 per cent, and the locomotives were depreciated and retired at the rate of 3 per cent per year, it would be 3 years before the factor of retirement and depreciation would have caught up with the drop in traffic. Then they presumably would level out their equipment needs, due to the loss of traffic. If it started up again, however, toward the old level, then they would have to increase their investment, to take care of their additional needs. Now, I have also pointed out that over a period of time, the carriers [fol. 2212] increase the efficiency of their equipment. We have used a factor 100 per cent. I do not believe it is an exact 100 per cent, however; it may be down around 90 per cent, or somewhere between 90 per cent and 100 per cent; we might even use a factor as low as 80 per cent without affecting the study significantly; because in the last analysis, all that we do is to take the return out of one place, and put it into another, out of one column, or one line, and put it into another; and the difference in distribution has very little effect on the study.

Q. Now, when we come to Roadway Property, the carriers have even less opportunity to reduce their valuation as traffic decreases; that is true, is it not?

A. Yes.

Q. A yard, for example, once having been provided for traffic, is kept intact until there has been some very revolutionary change in the traffic; that is true, is it not?

A. Why, it takes a very substantial change, yes, sir. However, yard tracks that are not needed, do not have the normal tie replacements or rail replacements that they would otherwise have; or they may be taken out of service, and the rail used elsewhere. You can have a shrinkage in traffic taken care of in almost innumerable small ways.

Q. Would you say that would represent 50 per cent of the return on valuation?

[fol. 2213] A. The portion that was variable?

Q. Yes.

A. On the road?

Q. Yes.

A. Yes, sir. Over the period of time covered, our studies of what the carriers actually increased in investment, and the rate at which they were pouring in money during the period we studied, indicated that it came out at—or rather, that that was the rate at which they were increasing their investment.

Q. How is that again, please?

A. In other words, to clarify it, if the traffic increased an average of, say, 3 per cent per year, we found that the carriers were increasing their investment, based on the 1910-1914 dollars, at the rate of about 1½ per cent per year.

Q. Now, Doctor, you have quoted various authorities as substantiating your position with respect to the inclusion of return on valuation and out-of-pocket expenses, and among them was Mr. James J. Hill. Now some of those quotations go back as far as 1885, do they not?

A. I would like to question your statement concerning Mr. Hill. I did not quote him as an authority on our per cent of out-of-pocket expense.

Q. Perhaps not, although I thought you did.

[fol. 2214] A. No, sir; I quoted him, or rather, quoted his statement to the effect that the railroads had reached a bottleneck in their plant, and needed a vast expansion in order to take care of increased traffic.

Q. I thought that you quoted that statement for the purpose of supporting your position.

A. Well, it was to indicate—that is, I quoted that statement for the purpose of indicating that as traffic has grown, the carriers have had to put more money into their plant.

Q. Now is it not true that most of these statements were made at a time when the traffic of the railroads was constantly increasing, say, prior to 1920, when the traffic doubled every ten years?

A. Well, as to the date of it, I would have to refer to the statement itself that Mr. Hill made.

Q. I am not referring now to his statement particularly, Doctor, but I mean the general run of these statements which you have quoted in support of your position. Were they not made, most of them at least, at a time when traffic was increasing at a rather uniform rate, from one decade to another?

A. Oh, no. I would prefer to refer to the statements themselves, but some of the statements to which you are referring now were made in the 20's,—if you are referring to return on value—or if you are referring, rather, to the [fol. 2215] fact that railroad plant does expand as traffic expands.

Q. When did Mr. Elliott make his statement—Mr. Howard Elliott?

A. I did not use Mr. Elliott Jones' statement with respect to plant. Mr. Elliott Jones did not include any allowance——

Chairman Aitchison: No. He said, Howard Elliott.
Mr. Plunkett: Mr. Howard Elliott, Doctor.
The Witness: Oh.
Mr. Smelker: Page 61.
The Witness: 61?
Mr. Smelker: 60 and 61.

A. That was in 1907.

By Mr. Plunkett:

Q. So that was at a time, then, when the traffic was constantly going up, was it not?

A. That may be true.

Q. Now, Doctor, will you turn, please, to page 40.

A. 40?

Q. Yes.

A. Yes, sir.

Q. In line 11, Account No. 371, Superintendence, you show that the average per cent of variation in traffic is 37 for the United States, ranging as high as 45 for the Western District; is that right?

A. Yes, sir.

Q. But you used 50 per cent?

[fol. 2216] A. Yes, sir.

Q. Why did you use 50 per cent?

A. At the time we used the figure of 50 per cent, we had not completed these extensive studies account by account, and the figures used were related back, in part, to previous studies that I had made in California. In some of those accounts the out-of-pocket percentage is greater than what we subsequently found. In other cases, it is less. As a whole, however, the percentage that we used, the percentage that we actually used for the different accounts, was substantially less than the amount that this table would indicate.

Q. Does that account for line 15, where the average was 89, and you used 100?

A. Yes, sir.

Q. And line 16, where the average was 64, and you used 75.

A. Yes, sir.

Q. Now referring to line 14, where the average was 27, and you used 75: How do you account for that?

A. Well, as far as line 14 is concerned—pardon me. I would like to correct my statement. I said that also applies to line 15—you referred to line 15, did you not?

Q. Yes.

A. Well, what I said does not apply to line 15. The percentages indicated are lower than that which we have used. However, we have rounded off the 100 per cent, which, as [fol. 2217] to that account, Yard Expenses, might overstate it in certain territories.

Q. What about General Expenses, in line 34, where the average is 27, and you use 50?

A. Where?

Q. Or, line 35.

A. That is true. On the reverse hand, however, there are other accounts there where we have used under, and yet,

year in and year out, our over-all figure of 72 per cent is lower than the total would indicate. In other words, as far as our use, ultimately, of a factor of 72 is concerned—that is what all of our individual factors work out to—it is a little less, equal to or a little less than what we actually worked out, by two or three approaches.

Q. Well, in the final analysis, Doctor, is it not largely a matter of judgment as to what the percentage is that you should use, as indicating the proportion that varies with traffic?

A. Now as a whole, no, sir, I do not think so. However, there is certainly some judgment involved, in connection with an individual account. In other words, if the item comes out at 87, 90, 91, 95, or even 100, there is some element of judgment there. However, we have this check back as to the total variability of expenses, when we take all of the accounts together, and trace them back, and compare [fol. 2218] it with the actual performance of the carriers, showing their operating expenses as a whole; and I think we have a pretty good check there.

Q. Now, Doctor, have you given any consideration to the new order on depreciation in docket 15100?

A. No.

Q. Will you return now to your Exhibit No. 13, please.

A. Yes.

Q. On the first page—or rather, will you refer first, please, to the explanatory notes, with respect to tare weight and empty return, shown on the back of the table of contents. Do you have that before you?

A. Yes, sir.

Q. Is it not true that one of the most important elements in a cost study is the ratio of empty to loaded cars?

A. Yes, sir, that is rather important.

Q. And that is because you determine the running cost for a given movement by taking the cost per gross ton mile and computing the number of gross ton miles involved in the given movement, is it not?

A. That is right,—your gross ton miles, and car miles, and freight train car expenses.

Q. In order to determine the number of gross ton miles you must know the number of miles that would be moved empty, with respect to a given loaded movement, must you not?

[fol. 2219] A. Yes.

Q. Does the ratio of loaded to empty mileage vary between the kind of cars used?

A. Yes, sir.

Q. In other words, are boxcars different from refrigerator cars?

A. Yes.

Q. And does the ratio of empty to loaded vary also with different railroads?

A. For the same kind of equipment——

Q. Yes.

A. ——or for the over-all equipment?

Q. For the same kind of equipment.

A. Yes, sir, it does,—that is, there may be some variation, although they are often very close, the percentages by carriers are.

Q. Is it different on different parts of the same railroad?

A. It may be.

Q. For example, on certain portions of a railroad, there may be a movement of refrigerator cars loaded in both directions, whereas, in some other part of the territory, there may be a 100 per cent empty movement; that is correct, is it not?

A. Yes, sir, that is true. Local conditions will undoubtedly affect that, if they get a backhaul between two points.

Q. And is it also true that that the ratio of empty to [fol. 2220] loaded will vary on the same railroad during different parts of the year?

A. Yes.

Q. By reason of seasonal traffic?

A. Yes, sir. We endeavor to take an average of annual conditions, and an average of the length and breadth of the carriers' system, or an average of the length and breadth of the territory.

Q. At the present time, when there is a heavy westbound movement of war materials, the ratio of empty to loaded movement on certain western railroads is much smaller than it was, and very much smaller than it was in 1939; that is true, is it not?

A. Well, it is a little smaller—that is, it certainly is somewhat smaller, yes, sir, although I might take exception to your use of the language, "very much smaller." It certainly is smaller, however.

Q. On the other hand, on certain other railroads, relative railroads, where the preponderance of the loaded traffic was westbound before the war, the increase in westbound loaded traffic brought about by the war would increase their empty car mileage; that is true, is it not?

A. I do not know specifically, but certainly war conditions might do that, yes, sir.

Q. Are railroad records kept in such a way as to show the [fol. 2221] ratio of empty to loaded car miles, in the case of passenger cars?

A. Not usually, no, sir.

Q. Then would it be necessary to estimate those ratios?

A. We asked every carrier to furnish that information, based upon available data, and most of the carriers either had records or had past studies which they furnished us. A few carriers, however, did not.

Q. Well, if they did not have any records, then they had to just make their best guess as to that ratio, did they not?

A. Well, in the case of those that had nothing at all, we simply took the average per cent return empty movement of other carriers in the territory, competing carriers, and we took an average for not less than five carriers. The per cent return empty movement per equipment, was fairly uniform. The returns indicated that.

Q. Now after you had gotten those percentages of empty to loaded movement from the various railroads, in reply to your questionnaire, you had to weight them, did you not, for a given territory?

A. Yes, sir.

Q. That is, in order to get a single ratio for Western Trunk Line territory, or for Mountain-Pacific territory?

A. Yes, sir.

Q. That was done in what way?

[fol. 2222] A. That was weighted on the basis of carloads of traffic handled in each type of equipment by each carrier in the territory.

Q. I believe you state in your exhibit, Doctor, that it was on the basis of cars forwarded.

A. Well, whatever I said is correct. It was either cars forwarded, or carried,—whichever it was.

Q. Do the reports of the carriers to the Interstate Commerce Commission show the class of cars in which the various commodities are shipped?

A. No.

Q. So that it would be necessary for you, then, to assume that a given commodity was always shipped in a given kind of car; is that correct?

A. Yes, sir.

Q. And you have shown how you assumed that in your Exhibit No. 2, I believe.

A. Yes.

Chairman Aitchison: Mr. Plunkett, it will be necessary for us to suspend, now, for a considerable period of time, because this room is needed by the hotel for other purposes during the noon hour.

Mr. Plunkett: I only have a very few further questions, if the Commission please, and I believe, if you will let me continue for just a minute or two, I can get through.

[fol. 2223] Chairman Aitchison: You may continue, then.

By Mr. Plunkett:

Q. Now, Doctor, will you turn to chart 7 of your Exhibit No. 13, please.

A. Chart 7?

Q. Yes.

A. Yes, sir.

Q. In that chart you show the class rates for the first, second, third and fourth classes.

A. Yes.

Q. And what you say is the out-of-pocket cost and the full cost of handling less than carload traffic by the Western Lines; am I right?

A. Well, I would not use the word "full," no, sir. I would say the total out-of-pocket, plus the expenses, constant expenses solely related thereto.

Q. All right. Now, did you compare the first four classes for the reason that those classes move the less than carload traffic?

A. Yes, sir.

Q. Now turn, if you will, please, to sheet 11, table No. 5.

A. Yes.

Q. Do you have that before you?

A. Yes, sir.

Q. On that page, you show that in the Western District the less than carload expenses exceeded the less than car-

[fol. 2224] load revenue by about 39 per cent. How do you reconcile that with the fact that on chart 7 you show that most of the class rate scales are higher than the expenses?

A. May I ask where you get that figure of 39 per cent? Will you refer to that line again, please. Evidently there is a computation involved there.

Q. I refer to the deficit shown in line 21 of table 5, $34,000,000, and the revenue, as shown in line 20, of $88,800,000. $34,000,000 is 39 per cent of $88,000,000.

A. The chart does not include collection and delivery, which is not included in the deficit, the item of $9,641,496, shown in line 18, column 5.

Q. Do I understand, now, Doctor, that chart 7 deals only with running expenses?

A. Pardon me?

Q. Do I understand that chart 7 deals only with running expenses, and not with terminal expenses?

A. It includes terminal expenses, but it does not include collection and delivery, which is not included in the deficit.

Q. Do you mean collection and delivery by motor vehicle?

A. Yes.

Q. What we call, pickup and delivery?

A. Yes, sir.

Q. Now, Doctor, in computing the cost data shown in [fol. 2225] Exhibit 13, did you use——

Chairman Aitchison: I am sorry, Mr. Plunkett, but I am afraid we will have to suspend now.

Mr. Plunkett: Very well.

Chairman Aitchison: I repeat that during the noon hour it will be very desirable for those of you who are going to testify, or who are going to have witnesses testify, to get in touch with Mr. Koebel, and let him know how much time you want and when you will be ready. Again I want to emphasize the necessity, in the case of prepared statements, of having copies prepared and circulated in advance. If you are going to use a prepared statement on the witness stand, a "canned" statement, under the rules you must have copies available for the Bench, the reporter, and a reasonable number for counsel.

We will suspend at this time until 2 o'clock this afternoon.

(At 11:30 o'clock a. m. recess taken to 2:00 o'clock p. m.)

Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock p. m.

Chairman Aitchison: Shall we come to order.

Mr. Snelker: Dr. Edwards.

FORD K. EDWARDS resumed:

[fol. 2226] Chairman Aitchison: Are you ready to proceed?

Mr. Plunkett: Yes, sir.

Cross-examination (Continued).

By Mr. Plunkett:

Q. Dr. Edwards, in preparing your Exhibit No. 13, did you use a different method in the apportioning of your constant expenses, such as return on valuation, and so forth, from what you used in your other exhibits?

A. Yes.

Q. In your Exhibit 13, as I understand it, you apportioned your constant expenses on the basis of revenue ton-miles—net ton miles; is that correct?

A. Revenue tons and revenue ton miles.

Q. Revenue tons, in the case of terminal?

A. Yes, sir.

Q. Now, in your Exhibit No. 3, you have apportioned your constant expenses to the functional units, such as gross ton miles, car miles, and cars originated and terminated; is that correct?

A. Yes, sir, which was equivalent to stating them as direct expenses.

Q. Now you have already mentioned the fact that you included in your out-of-pocket expense, a return on investment equal to 100 per cent on equipment, and 50 per cent on fixed property; is that right?

A. Yes, sir.

[fol. 2227] Q. Were there any other changes in your method of preparation of Exhibit 13, as compared to your other exhibits, than the two that I have mentioned?

A. No, sir. I think that the only difference was the difference in the treatment of the constant expenses.

Q. And the computation of out-of-pocket expense?

A. Yes, sir. Of course, Exhibit 2 shows the computation of out-of-pocket operating expenses. We made no change in that.

Q. But Exhibit 3 does not show the out-of-pocket expense.

A. No, sir. The only reference to it is in Exhibit 2, stating that the out-of-pocket expenses were a certain percentage, and we made some rough estimate there of an allowance for return on freight train cars. We merely mentioned that there would be an allowance included, and dropped the matter at that point. The new study carried it out.

Q. Did the change that was made in your method of apportioning the constant expenses, result in any considerable change in the result?

A. It resulted in a difference in the cost, in the full distributed cost on traffic, the weight of which was substantially different from the average.

Mr. Plunkett: That is all I have.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

(Witness excused.)

[fol. 2228] Chairman Aitchison: You may proceed, Mr. McCarthy.

Mr. McCarthy: Mr. Marks, will you take the stand please. May I inquire as to the next exhibit number, if the Chairman please?

Chairman Aitchison: The next exhibit number will be 108, gentlemen.

J. E. Marks was sworn and testified as follows:

Direct examination.

By Mr. McCarthy:

Q. Mr. Marks, will you give your full name to the Commission, please.

A. J. E. Marks.

Q. Where do you reside?

A. Lexington, Kentucky.

Q. For whom are you testifying in this proceeding?

A. I am testifying in this proceeding for the Railroad Commission of Kentucky, and the Commonwealth of Kentucky.

Q. Will you please state briefly for the record your experience in traffic and transportation matters.

A. I have been engaged in handling traffic and transportation matters for approximately 30 years, in the employ both of shippers and carriers. I have participated in numerous cases before this Commission affecting rates to, from and between points in Kentucky; and I feel that I am reasonably familiar with the Kentucky rate adjustment.

[fol. 2229] Q. Will there be another witness for the Commonwealth of Kentucky, besides yourself?

A. Yes, sir, there will be. My exhibit is primarily a class rate exhibit. In addition to this exhibit, Mr. L. F. Orr will present a statistical exhibit. Our testimony will be on behalf of the state as a whole. However, it may be that one or two of the cities in Kentucky will have a representative here, who will speak for his respective city or community.

Q. Now, Mr. Marks, have you prepared an exhibit, which you desire to submit in support of your testimony?

A. Yes, sir, I have prepared one exhibit, consisting of a title page and seven pages, which I would like to submit at this time.

Mr. McCarthy: If the Commission please, we ask that this exhibit be marked as Exhibit 108 for identification.

Chairman Aitchison: Which one is it?

The Witness: 108.

Chairman Aitchison: We have two exhibits here, and I do not know which one it is. Is it the exhibit which deals with rates?

Mr. Orr: It is the rate exhibit, if the Chairman please, as distinguished from the statistical exhibit.

Chairman Aitchison: The one that says at the top "Rate Exhibit."

Mr. Odd: Yes.

[fol. 2230] Chairman Aitchison: Very well.

(Exhibit No. 108, Witness Marks, marked for identification.)

By Mr. McCarthy:

Q. Now, Mr. Marks, will you please proceed in your own way to explain Exhibit 108 for identification.

A. The State of Kentucky is generally portrayed in rate exhibit maps and rate territory maps, as being a part of Southern territory. Such maps almost invariably show the

line between Southern territory and Official territory as extending along the Ohio River from Cairo to Kanawha, thence along the Norfolk & Western and Virginian Railways to Norfolk, Virginia. I would like to refer now to sheet 1 of my Exhibit 108 for identification, which is a map of Kentucky, showing what portion of Kentucky is in Official territory, and what portion is in what is known as Southern territory. It will be observed that all of the southbound Ohio River crossings, including Paducah, Henderson, Louisville and Covington, Kentucky, and also all points in eastern and northeastern Kentucky served by the Chesapeake & Ohio Railway, are in Official territory, and the rates between those points are governed by the Official classification. Sheet 2 of the exhibit shows that there are 120 counties in Kentucky, of which 21, or 17 per cent, are served by Official Classification Lines. It further shows [fol. 2231] that 17 per cent of the area of Kentucky is in those counties served by Official Territory Lines, and that 39 per cent of our population is in Official Territory. This, I think, disproves the common impression that Kentucky is wholly within the South.

Q. Now, what efforts, if any, have been made by the State of Kentucky and its Railroad Commission to obtain Official Territory rates for the entire state?

A. For more than 40 years it has been the position of the Railroad Commission of Kentucky, and the Commonwealth of Kentucky, that our rate level in Kentucky should not exceed that prevailing immediately north of the Ohio River, in what is generally known as Central Territory. Much time and effort has been expended in presenting these views to the Interstate Commerce Commission. They were presented in practically every one of the general investigation cases, involving class rates, and a great many of the investigations involving commodity rates, with a view to convincing this Commission that our rates should not be higher than those in Central Territory. Our efforts in this respect have been rewarded with a certain measure of success. For example, in the Southern Class Rate Investigation, or as the result of that investigation, rates which became effective January 15th, 1928, were joint through overhead rates between interior Kentucky points and Official Territory. Those rates were lower relatively than the [fol. 2232] combination basis which had prevailed prior to that time. Immediately after the Southern Class Rate In-

vestigation certain carriers in Kentucky undertook to eliminate some of our central Kentucky points, such as Lexington, which is the third city in the state, Winchester, and certain other points there, from Official Territory, and put them into the South, on the 13494 basis. This was opposed by those central Kentucky cities, and the Commission in its decision entitled Class Rates from Kentucky Points, 146 I. C. C. 115, disapproved of this method, and permitted them to remain in Official Territory. That same basis was confirmed in the Eastern Class Rate Investigation, which became effective in December of 1931. Further progress was made along this line in bringing our interior Kentucky rates more nearly in line with those in Central Territory, in the Western-Southern Class Rate Investigation, and also in the various decisions in the Consolidated Southwestern Cases. In addition to these general investigations, the State of Kentucky brought a complaint of its own in the so-called borderline case, docket No. 21373, the title of which case was Commonwealth of Kentucky versus A & W Railway Company, 213 I. C. C. 297.

Chairman Aitchison: That volume and page again, please.

A. 213 I. C. C. 297. Under the decision in that case the class rates between interior Kentucky points and points in Official Territory were lowered on the whole, I believe about [fol. 2233] 8 per cent, which made them approximately 15 per cent higher—that is, between interior Kentucky points and all of Official Territory—than the Eastern Class Rate scale, where prior to that time they had been approximately 125 per cent of that scale. In other words, we were given that much relief in the so-called Kentucky Interstate Case.

By Mr. McCarthy:

Q. What have you to say, Mr. Marks, about the Kentucky intrastate class rates?

A. As far back as the 90's the Kentucky Commission undertook to bring its Kentucky intrastate class rates more nearly in line with those of Central Territory. Under Mr. Commissioner McChord, who was then chairman of our Kentucky commission, an investigation was held concerning those rates shortly after the turn of the century, and a general basis was prescribed which brought them very

nearly to the Central Freight Association basis. Those rates were published, and they were fought by our Kentucky railroads in the courts; and that culminated in the decision of the United States Supreme Court in the case of Louisville & Nashville Railroad versus Seiler, 213 U. S. 175, decided about 1909. In substance that decision held that the Kentucky commission, under the statute then in effect, did not have the power to prescribe a general basis of rates for the state, but that it was confined in its authority to point-to-point rates. That decision had the effect of rather halting [fol. 2234] efforts along that line for some years. Shortly after that, however, efforts were made to change our Kentucky statute, to have it amended, but that was not made effective until 1930. Immediately after 1930, our Kentucky commission instituted investigation of class rates in Kentucky under its docket No. 344—class and commodity rates; and as a result of that investigation rates were prescribed which became effective in 1935. As I will show later by sheet 7 of my exhibit, those rates are very close to the Central Freight Association basis.

Q. Have the Kentucky intrastate class rates been approved by the Interstate Commerce Commission?

A. Yes, sir, in this way: Immediately after our intrastate rates were published and became effective in 1935, this commission, the Interstate Commerce Commission, in a 13th Section investigation, docket No. 27325, reported at 223 I. C. C. 109, found that our intrastate rates were not unlawful.

Q. What has been the result of these various decisions?

A. The decisions which I have just cited have had the result of bringing our rates rather close to the Central Freight Association basis. In any event, they are much closer than those applicable to and from points in the states south of us.

Q. Will you please proceed with your explanation of the ex-bit.

[fol. 2235] A. Sheet 3 of the exhibit shows present class rates between six representative points in Central Territory, and twelve representative points in interior Kentucky, as compared with the Eastern Class Rate scale. It will be noted that between Pittsburgh and these Kentucky cities, the present rates average 12 per cent higher than the scale,—Cleveland 14 per cent, Detroit 15 per cent, Indianap-

olis 21 per cent, Chicago 15 per cent, and St. Louis 18 per cent; on the whole, about 15 per cent higher.

By Chairman Aitchison:

Q. Do these include the Ex Parte 148 increases?

A. Pardon me?

Q. I say, do these figures here include the Ex Parte 148 increases?

A. The increases under Ex Parte 148 are not included in these rates, no, Mr. Chairman. That is shown on the title page under the note.

Q. Continue.

A. Sheet 4 of the exhibit shows the same information with respect to representative eastern cities, New York and Baltimore, and these same twelve interior Kentucky points. Those interterritorial rates are about 8 per cent higher than the Eastern scale. Sheet 5 shows Kansas City and Denver, two representative points in Western Trunk Line Territory. The Kansas City rates are about 15 per cent higher, [fol. 2236] and the Denver rates are about 3 per cent higher than the rates, for equivalent distances, to and from points in Central Territory. Sheet 6 shows the southwest, Dallas and Oklahoma City, our rates to and from those points being about 3 per cent higher than the rates between the same two cities and points in Central Territory, for equal distances. I come now to sheet 7 of the exhibit, which shows our Kentucky intrastate rates. These rates are governed by the Official Classification basis and exceptions thereto. They have two scales in Kentucky. Scale-A applies in that part of Kentucky shown on sheet 2 as being in Official Territory, that is, between south bank Ohio River crossings and the eastern part of the state, served by the Chesapeake & Ohio Railway, and between the eastern part of the state and south bank Ohio River crossings. Scale-A is exactly the same as the Central Freight Association-Eastern scale, the appendix-E scale. Scale-B applies in the remainder of Kentucky. It is the same as the Eastern scale for 150 miles. Above the distance of 150 miles it grades up into the K-2 scale. In my judgment, at least, 75 per cent of our Kentucky intrastate class traffic moves either on Scale-A, or for distances not over 150 miles, on Scale-B, and therefore gets the full benefit of the Central Freight Association basis. I also believe that not more than 5 per cent of our traffic moves on Scale-B for distances over 500 miles.

[fol. 2237] By Mr. McCarthy:

Q. Will you now please state generally the position of the State of Kentucky in this proceeding before the Interstate Commerce Commission.

A. The State of Kentucky has made considerable progress toward bringing her interstate and intrastate rates nearer the level of the rates in effect in Central Territory. There is no reason why our rates should be any higher than those of Central Territory, governed by the same classification. If this proceeding should result in a general overhauling of the class rate adjustment, it is our view that Kentucky should be accorded rates no higher than those of any other section of the country. We are particularly averse to having our rates made 10 per cent higher than those of Central Territory, as suggested in Witness Jensen's Exhibit No. 7.

Q. Does that complete your testimony?

A. Yes.

Mr. McCarthy: That completes the testimony of the witness on direct, if the Commission please.

Chairman Aitchison: May I ask a question before the cross examination begins.

By Chairman Aitchison:

Q. I did not just get, Mr. Marks, how long you said you have been representing traffic interests in Kentucky.

A. I am very sorry, Mr. Chairman, but I could not hear [fol. 2238] the question.

Q. I asked you how long you have been representing the interest of various people, in a traffic way, down in Kentucky.

A. I have been located in Lexington, Kentucky, since 1923, Mr. Chairman. For approximately five years I was traffic manager——

Q. That is sufficient. You were not there during Federal control, I take it,—were you?

A. No, sir, I was not. I was in the United States Diplomatic Service, in Europe, at that time.

Chairman Aitchison: I will ask you no further questions, then. Thank you.

Mr. McCarthy: The witness is tendered for cross examination, Mr. Chairman.

Chairman Aitchison: You are offering Exhibit 108 in evidence, I take it.

Mr. McCarthy: Yes, Mr. Chairman. Thank you. Mr. Marks' Exhibit 108 is offered in evidence at this time.

Chairman Aitchison: Without objection, it is received.

(Exhibit 108, Witness Marks, received in evidence.)

Chairman Aitchison: Cross examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Marks, I assume from your testimony that you feel that there is no justification for either a difference in rate [fol. 2239] level or a difference in classification as between Kentucky and Official Territory; is that correct?

A. Yes.

Q. Do you know of any reason why there should be such difference immediately south of Kentucky?

A. Mr. Norman, I have not undertaken to make any study of the states south. As far as any proposal of theirs is concerned, we are not opposing it, nor are we sponsoring it. We feel that those states should make their own case. We are not undertaking to interpose any objection to anything that they might do or say here.

Q. You do want, however, for interior Kentucky, the same adjustment that you have at the present time from Ohio River crossings, and from Lexington east; is that correct?

A. Yes, sir.

Mr. Norman: That is all.

By Chairman Aitchison:

Q. And the same classification which you have north of the river?

A. Yes, sir.

Q. Going clear down to the southern boundary of Kentucky?

A. Yes.

Mr. McCarthy: Clear to the southern border of Kentucky.

The Witness: Yes.

Chairman Aitchison: Is there any further cross examination? (No response.) There seems to be nothing further. [fol. 2240] You are excused,

The Witness: Thank you.

(Witness excused.)

Mr. McCarthy: Call Mr. Orr.

L. F. Orr was sworn and testified as follows:

Direct examination.

By Mr. McCarthy:

Q. Mr. Orr, will you give your full name to the Commission, please.

A. L. F. Orr.

Q. Will you briefly state for the record what experience you have had in the matter of cost accounting.

A. I have had more than 35 years experience in general accounting, cost accounting, and transportation and traffic work. That includes both rail and truck experience.

Q. How long have you been connected with the Commonwealth of Kentucky?

A. Approximately 20 years, and during that period of time I have been making a constant study of the rate structure in Kentucky, as compared with surrounding states; and as well, the operating and other conditions of the railroads serving Kentucky and surrounding states. I might say, that research dates back to the early development of the Kentucky railroads, but that is merely historical.

Q. What has been the result of your studies?

[fol. 2241] A. My studies show that there is no justification, from a transportation standpoint, and I do not know of any other justification, for the rates in the State of Kentucky being any higher than, or on a different basis than the rates immediately north of the Ohio River, based on average traffic conditions of the Southern Region lines in Kentucky as compared with the average traffic conditions of the Official Territory lines as a whole.

Q. Have you prepared an exhibit for presentation in this proceeding?

A. Yes, sir.

Mr. McCarthy: I ask at this time, if the Commission please, that Mr. Orr's Exhibit 109 be marked for identification.

(Exhibit 109, Witness Orr, marked for identification.)

By Mr. McCarthy:

Q. Will you please proceed now, Mr. Orr, to discuss your exhibit, and offer such further testimony as you desire.

A. My Exhibit 109 for identification, I believe, confirms the statement I have just made. I believe the exhibit is largely self-explanatory, being made up of figures covering traffic densities and operating conditions; and I believe it will speak for itself.

Q. Do you think that higher rates in the State of Kentucky, are justified?

[fol. 2242] Chairman Aitchison: Oh, that is not the question here. Any number of witnesses may testify that they are not, and an equal number may testify that they are.

Mr. McCarthy: That is true, Mr. Chairman. I will withdraw that question.

By Mr. McCarthy:

Q. Will you please proceed, Mr. Orr, to make such further explanation of your exhibit as you deem necessary.

A. I would merely like to point out that the railroads—and that includes the railroads in Official Territory—have been losing traffic constantly, both class rate traffic and other traffic, on the present level of rates, to an extent sufficient to indicate to my mind, at least, that no higher level of rates is justified; and not only that, but it would seem to indicate, to the contrary, that many of the present rates should be reduced. The tendency has been to make class rates so high, particularly on the higher classes, as to cause a diversion of the traffic to the trucks. I might say right here that a large part of the intercity movement by truck is due to the arbitrary level of freight rates, rather than any economic conditions that would justify that traffic moving by truck; and that is particularly true beyond 300 miles. To indicate the economic loss from this situation, you can take every pound of truck traffic that is moving at the present time by for-hire carriers intercity, and put [fol. 2243] it into the empty space in the boxcars that are

moving at the present time partially loaded, and do that without appreciably increasing gross ton-miles, and it will actually reduce unit costs. That statement is based primarily upon a test made for the first quarter of 1942. Section D of my exhibit covers a test of the first quarter traffic. That shows that there is 66,000,000 tons of empty space in the closed car equipment that is moving under load. That is only carload traffic. In addition to that, the increase in merchandise loadings since this test was taken has made available some 60,000 to 70,000 boxcars, which would add to this capacity. I might also point out, because it may not be so clear, as to how I made the estimate of truck tonnage. The quarterly reports of class-1 carriers to the Commission show 17,000,000 odd tons of truck traffic moving during the first quarter of 1942. The Commission has estimated—and it is fairly well-established; I have seen the estimate from time to time, and it is generally accepted—that the class-1 traffic is half of the total traffic moving by truck inter-city. That would give you around 34,000,000 tons of truck traffic to load into 66,000,000 tons of space, not counting your 70,000 odd boxcars that are being made available every week by the heavier merchandise loadings.

By Chairman Aitchison:

Q. How many of them do you have down in Kentucky?

[fol. 2244] A. I am very sorry, Mr. Chairman, but I could not hear the question.

Q. How many do you have down in Kentucky? There is no use talking about how many you have in the country as a whole.

A. Oh, I would say, Mr. Chairman, that Kentucky is about average in the way of loaded and empty space, according to the figures.

Q. Well then, that would argue for a reduction in the rates generally outside of Kentucky, would it?

A. The point that I am now making, Mr. Chairman, is this, that we should not depart too far from what we have here, from what has been developed, through truck-competitive conditions during the past 20 years, to try out something that will too far depart from what we think is the proper type of rates. In other words, I do not say that the present level of rates is perfect, but I mean, the trial-and-

error method of putting in truck-competitive rates over the period of the past 20 years, has given us some indication at least of what it takes to move the traffic over the railroads, and hold the traffic to the railroads. That was the main purpose of that part of my exhibit.

Q. Did you say, that is in section D?

A. Yes.

Chairman Aitchison: I have no section D in my exhibit.

The Witness: Oh, I beg your pardon, Mr. Chairman. I [fol. 2245] misspoke. It is in section C. Section C shows the quarterly commodity statistics of the Commission, to which the tests referred to apply.

Chairman Aitchison: Proceed.

By Mr. McCarthy:

Q. Is there any further statement you desire to make for the record, Mr. Orr?

A. I believe not.

Mr. McCarthy: At this time, if the Commission please, we offer Mr. Orr's Exhibit 109 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 109, Witness Orr, received in evidence.)

Mr. McCarthy: The witness is tendered for cross-examination.

Chairman Aitchison. Cross-examine.

Cross-examination:

By Mr. Northcutt:

Q. As I understand it, Mr. Orr, you do not want the existing situation down there in Kentucky changed, the rates having been established, at least in part, to meet truck competition. Is that correct?

A. I would say, Mr. Northcutt, that I see no reason for increasing any of these truck-competitive rates, because, although truck competition may during the present war disappear temporarily, all of the indications are that it will return more severely at the end of the war, or following [fol. 2246] the war, than it now is. I base that statement on improvements in trucking equipment, in the way of more efficient motors, lightweight equipment, and so forth.

Q. Well, then, if I understand it, you want the Kentucky rates let alone; is that correct?

A. Well, I would not exactly put it that way either, Mr. Northcutt. I have always contended for the Official Territory level of rates in Kentucky, and I see no reason why the Kentucky rates should not be on the same level as Official Territory, and on the same basis.

By Chairman Aitchison:

Q. And on the same classification?

A. How?

Q. I say, and on the same classification?

A. Yes, sir.

Mr. Northcutt: That is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Orr?

Mr. McCollester: Just one or two questions, if the Commission please.

By Mr. McCollester:

Q. Mr. Orr, it is a fact, is it not, that in the Southern Governors' case, the State of Kentucky first joined with the other states as a complainant, and then later withdrew?

A. That is not correct, no, Mr. McCollester. I would prefer not to go into that, but I will simply say this, that [fol. 2247] never did the Southern Governors have the authority to sign the name of the State of Kentucky to that petition.

Q. Well, the State of Kentucky did not participate as a complainant in the Southern Governors' case, did it?

A. I was not present at that proceeding, Mr. McCollester, and as I stated, I would prefer not to go into that. I would prefer that Mr. Marks, who was the witness for the State of Kentucky in that proceeding, should state the position that was taken by the State of Kentucky in that proceeding.

Q. Well, I was asking you.

A. Well, I do not know.

Mr. McCollester: That is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Orr? (No response.) Apparently not. You are excused.

(Witness excused.)

Chairman Aitchison: Does that, now, complete your presentation, Mr. McCarthy?

Mr. McCarthy: Yes, sir.

Chairman Aitchison: Mr. Whorton, of Omaha.

WALTER M. WHORTON was sworn and testified as follows:

Direct examination.

The Witness: My name is Walter M. Whorton. I am manager of the Transportation Department, Omaha [fol. 2248] Chamber of Commerce. I have been with the Chamber of Commerce since 1918. Prior to that time I was for a number of years with the Union Pacific Railroad. I have prepared an exhibit for presentation in this case, consisting of eight pages, a title page and seven other pages, which I ask at this time to have marked as my Exhibit No. 110 for identification.

(Exhibit No. 110, Witness Whorton, marked for identification.)

The Witness: Pages 1, 2, 3 and 4 of the exhibit compare costs in various territories, using as the basis Dr. Edwards' cost study as shown in his Exhibit No. 3. In his Exhibit No. 2, tables 1 to 7, he compares the costs in each of the territories for distances of 300 miles only, less than carload 5 tons and carload 25 tons in boxcars. I have carried those distances out from 1 to 1500 miles, showing that in Eastern Territory the percentage increases with distance, while in Western Territory the percentage decreases with distance. I am referring there to the percentage that the various territories bear to the United States as a whole. Page 5 of the exhibit compares the costs in Eastern Territory and Western Trunk Line Territory, with the first class rates under the Eastern scale and Western Trunk Line zones 1, 2 and 3 scales, and shows that while the cost, based on Dr. Edwards' cost study, in Eastern Territory, greatly exceeds the first class rates the first class rates in Western Trunk Line zones 1, 2 and 3 greatly exceed the cost in those territories. [fol. 2249] Pages 6 and 7 of the exhibit compare the less than carload cost, on 5 tons in boxcars, from specific points of origin to specific destinations, on the first four classes, and the average of the first four classes between the same points, showing that the present rates

from eastern points to the western points are considerably lower than the cost plus a return of 5¾ per cent. Page 8 of the exhibit compares the carload cost on fifth class, A, B, and C rates, from and to the same points shown on pages 6 and 7; and shows that the carload costs are actually lower than the through class rates. Now, at the Missouri river, ever since 1931, we have been drying up, as you might call it. We had a lot of jobbing points at the Missouri River prior to 1931, but since December of 1931 our jobbers have been going out of the picture, one after the other. I think, based upon Dr. Edwards' cost study, pages 7 and 8 of this exhibit, possibly state the reason why. They show that eastern points are getting out there at too low a rate, as compared to the carload rates in. I believe that is all I have on direct, Mr. Chairman, and at this time I wish to offer my Exhibit 110 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 110, Witness Whorton, received in evidence.)

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Hughes:

Q. Mr. Whorton, your interest here appears to lie [fol. 2250] primarily in the jobbers of Omaha. Is that correct?

A. Yes.

Q. Is there a conflict ordinarily between the interests of jobbers and manufacturers within a given area?

A. Well somewhat, at times, yes, sir. In other words, the jobbers in our territory bring in carloads and distribute in less than carload quantities, while the manufacturers of course like to distribute in their trade territory.

Q. Now, as I understand it, you are complaining here that the class rates into Omaha from the East are too low, and that has hurt your distribution. Is that correct?

A. The class rates through to our trade territory beyond Omaha, and to Omaha as well, are too low to enable the jobbers to bring in a carload, unload it, put it in their warehouse, and then distribute it to their trade territory. In other words they run right through us with their less than carload rates, on a lesser cost.

Q. Did the Omaha Chamber of Commerce participate in the hearings in the 17,000-Part 2 proceeding?

A. Yes, sir, they did; they participated both in the 17,000-Part 1 proceeding and the 17,000-Part 2 proceeding.

Q. Well, part 2 was a proceeding in which class rates were prescribed, was it not?

A. Yes, sir.

Q. And the class rate to which you refer as being injurious [fol. 2251] to the Omaha jobbers, are those class rates which were prescribed in the 17,000-Part 2 proceeding, are they not?

A. Yes, sir.

Mr. Hughes: That is all.

Chairman Aitchison: Is there further cross examination?

Mr. McCollester: Yes, sir.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester.

Q. Mr. Whorton, in the preparation of your Exhibit 110, did you study Dr. Edwards' exhibit from which you have derived your computations, so that you understand the theory of his exhibit?

A. Well, I believe I did, yes, sir. I made a study of it, so that I knew how to apply distance to his less than carload cost, adding to that, then, his terminal cost.

Q. Well, on the basis, then, of your study of Dr. Edwards' computations, is the inference that we should draw from your Exhibit No. 110 here, that for a haul, for example, of 1,000 miles of a car containing five tons of freight, the first class rate in Official territory is 30 cents less than the cost of hauling the car?

A. That is the answer, according to Dr. Edwards' cost study, applying that cost to the actual five ton load.

Q. Did you pursue that any further, to see what other rates of the Official Territory lines would, on that theory, be less than the cost of performing the transportation service?

[fol. 2252] A. Why, I found that the majority of the rates in Official Territory, if you want to stick to Official Territory, are less than this cost plus 5¾ per cent return.

Q. That would indicate that the Official Territory lines, based on Dr. Edwards' study, must be losing money every day that they operate, would it not?

A. Why, I wouldn't say that they are losing money every day they operate, no, sir, but I say that they are not making a 5¾ per cent return. That is my point.

Q. But your computation, based upon Dr. Edwards' study, would lead to the conclusion that the Official Territory lines must be losing money every day they operate, would it not?

A. No, sir, I would not arrive at that conclusion at all. My conclusion would be that they are not paying out, on the entire valuation, plus a 5¾ per cent profit.

Q. How much of a return on their valuation, or on their investment, either one, are they making, according to your computation?

A. Why, I did not compile any figures to show what return the Eastern roads are making.

Chairman Aitchison: I did not understand that he was taking into account Official Territory only. I thought he was making comparison of the movement for the longer distances to the Missouri River.

Mr. McCollester: Well his figures, Mr. Chairman—if [fol. 2253] I understand you correctly—make no distinction between individual lines in Official Territory. Do they, Mr. Horton?

The Witness: Dr. Edwards' cost study, do you mean?

Mr. McCollester: No, I mean the figures which you have used.

A. Well, the figures which I have used, as I stated before, are figures that were taken from Dr. Edwards' cost study.

Mr. McCollester: Yes.

The Witness: That is, taking the average of the lines in that territory.

Mr. McCollester: Official Territory lines.

The Witness: Yes.

Chairman Aitchison: For these distances.

Mr. McCollester: Yes.

The Witness: Yes, and for these weights.

Chairman Aitchison. But Dr. Edwards used other distances which this witness has not taken into account.

Mr. McCollester: Yes, if the Commission please, but I asked Mr. Horton if, for every distance that he could think of, he did not show a greater cost than the rates involved, the first class rates, for Official Territory lines, and if I

understood him correctly, he said that he had reached that conclusion.

The Witness: If you want to break down your cost, you can refer to pages 6 and 7 of the exhibit, where you have [fol. 2254] your first class rates, and your first four class rates, and then you have the cost on page 6. If you want to follow that through, you will find that your first four classes from New York to Omaha average 200.5, while your cost from New York to Omaha, plus 5¾ per cent profit, is 272.47.

Q. That is all predicated, is it not, upon the figures which precede, which show costs for different distances, beginning with 100 miles, and which you have extended up to as far as you had to go, to get to Omaha; that is correct, is it not?

A. No, sir. Those figures are all arrived at, as shown at the foot of page 7. It shows what I have used for terminal cost and linehaul cost, using one terminal in Official Territory and one terminal in Western Territory.

Q. Well your conclusion, however, just to put it in a nutshell, is that, using the distances involved in getting to Omaha, based upon average figures for all of the Official Territory lines, the first class rates do not return the Official Territory lines their out-of-pocket expenses, plus a return of 5¾ per cent; is that right?

A. I am afraid, counsel, that you do not correctly understand this exhibit. Apparently you do not.

Q. Maybe I do not.

A. I am using the cost in Official Territory while we are in Official Territory, and the cost in Western Trunk Line Territory while we are traveling through Western Trunk [fol. 2255] Line Territory.

Q. All right.

A. Using the distance in each, and the cost in each.

Q. My question should have been limited to the Official Territory portion of the haul, then. As to that portion of the haul, is the showing which you intend to make here this, that the first class rates of the Official Lines, for their part of the movement from New York to Omaha, which I take it would be practically the entire breadth of Official Territory, for that movement, are less than the cost?

A. Yes, sir.

Q. Is that your conclusion?

A. Yes, sir.

Q. Did you make any study of the carload costs?

A. Yes, sir.

Q. And did you reach the same conclusion with respect to them?

A. I found that the carload costs are exceeded by the rates; the rates exceed the carload costs, and greatly exceed the carload costs.

Mr. McCollester: That is all.

By Chairman Aitchison:

Q. How do you know what divisions the Official Territory lines get, on the movement to Omaha?

A. I am very sorry, Mr. Chairman, but I did not get the first part of the question.

Q. I asked you, how do you know what divisions the [fol. 2256] Official lines get, on the movement to Omaha?

A. I don't know.

Q. Well, does that not determine whether they are making money or losing it?

A. Well, my position is this, Mr. Chairman, that they must be making some money, because they did not go into the hands of receivers, while all of the western lines did, with one or two exceptions; and that is probably based on the matter of division.

Chairman Aitchison: Is there any further cross-examination of the witness? (No response.) There seems to be nothing further. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Reed.

Mr. Reed: Mr. Hughett.

J. D. Hughett was sworn and testified as follows:

Mr. Reed: If the Commission please, Mr. Hughett is appearing for the Southwestern Motor Freight Bureau, Inc., Dallas, Texas. He will have one exhibit to submit, which I will ask at this time to have identified as Exhibit No. 111.

(Exhibit 111, Witness Hughett, marked for identification.)

Mr. Reed: Mr. Hughett has a prepared statement of his testimony, and copies of his testimony and his exhibit

have been distributed a matter of some two weeks ago [fol. 2257] to all of the parties whose names were given us at the Indianapolis hearing. We do not insist on Mr. Hughett being permitted to read his statement, unless that is desired. We are perfectly willing to have the Reporter incorporate it into the record.

Chairman Aitchison: Is there any desire that the witness be examined orally, or is it agreeable that his statement be copied into the record? (No response.) Without objection, it may be copied in.

(The statement is as follows:)

My name is J. D. Hughett. I reside in Dallas, Texas, and I have resided in that community for nine years. Prior to that time I resided in various points throughout the Southwestern territory, mostly in the State of Texas.

I have had 26 years of traffic and transportation experience, beginning with the railroads and extending from that service into the commercial service representing shippers in a private capacity and as an employee of the traffic and transportation department of various chambers of commerce, and the port authorities, particularly at the ports of Corpus Christi and Orange, Texas.

I have been with the motor carrier freight lines since August, 1934, and I am now the General Manager and Publishing Agent for the Southwestern Motor Freight Bureau, Inc., the agency that publishes the interstate tariffs for the motor common carrier freight lines operating [fol. 2258] within and to and from the Southwestern States of Oklahoma, Texas, New Mexico, Arkansas, Louisiana (west of the Mississippi River), Southeastern Missouri, and between points located in said territory, on the one hand, and Mississippi River Crossings, Memphis, Tennessee, and south thereof, on the other hand. Also this agency publishes rates between points in Southwestern territory, on the one hand, and Colorado and Wyoming, on the other.

In my present capacity as well as in connection with my prior positions I have become thoroughly informed with respect to the railroad rate tariffs and the motor common carrier rate tariffs. I am also familiar with the movement of commodities generally throughout the Southwestern territory and to and from the Southwestern territory.

Particularly am I familiar with the initial publication of rates by the motor common carrier freight lines in this territory for the reason that I participated in proceedings of State Regulation of motor common carrier freight lines and the establishment of their rates prior to the effective date of the Interstate Commerce Act, Part II.

I am particularly informed with respect to the competition which has heretofore existed and which now exists as between the motor common carrier freight lines and the common carrier rail lines. I am familiar with that competition and I am familiar with the competition en- [fol. 2259] countered by both rails and common carriers from other sources such as private carriers and contract carriers.

I am particulary familiar with the history and origin of the so-called Grocery Mixture Rates and the so-called Hardware Mixture Rates now generally applicable in the Southwestern States on both interstate and intrastate commerce. Both of these mixtures, which constitute substantial exceptions from the classification and class rate basis, were initiated by the railroads and over the protest and objection of the motor common carriers. In one instance we actually undertook to appeal the publication of the Exception Mixture Rates to the Courts and to enjoin their application to the traffic in this territory.

The Grocery Mixture exception to the general classification and class rate basis was initiated by railroad through Transport Subsidiaries on November 11, 1931, by the filing of an application with the Railroad Commission of Texas seeking authority to make the general exception applicable to the Grocery Mixture.

The contention was made before the Railroad Commission of Texas that the exception was necessary for the purpose of meeting private carrier competition. The motor common carrier freight lines were subject to the same private carrier competition which might have existed for the transportation of these commodities, and, in fact, [fol. 2260] some of the wholesale grocers were at that time operating their own fleet trucks handling their own commodities to numerous points.

The motor common carrier freight lines, however, were of the opinion that any reduction in rates for package freight in less-than-truckload and less-than-carload lots would not in any way have any bearing upon the private

carrier competition for the wholesale distribution of groceries and the supplies ordinarily handled by wholesale grocers.

It was our contention that a reduction in the any-quantity ratings would have no bearing upon this competition. Subsequent events have carried out and established as a fact that our position with respect to the matter was correct. Instead of retrieving the traffic theretofore handled by the wholesale grocers in their fleet trucks the reduction rates did no more than to reduce the revenues of the rails and the motor lines on the small package freight which they had theretofore been handling because it was not of sufficient volume to warrant private carrier operation. Furthermore, after these rates were made effective the wholesale grocers did not abandon their fleet operations but on the contrary continued those that they had been operating theretofore and increased the number of trucks operated in their fleets and continued to handle the truckload traffic and leaving to the common carrier motor lines and the railroads the handling of the package freight under the reduced rates which had theretofore been handled [fol. 2261] by both rail and the motor lines because it was unprofitable to the wholesale grocers to handle it in their fleet operations.

In addition to the wholesale grocers that had and were maintaining fleet operations at the time the exceptions in the form of commodity rates were established known as the Grocery Mixture, other wholesale grocers have, since the publication of the Grocery Mixture, established their own fleet operations for the handling of the truckload traffic and have continued to leave to the railroads and the motor common carriers the handling of the more expensive small package less-than-truckload and less-than-carload freight.

The common carrier trucks have had the same experience in connection with the so-called Hardware Mixture which has been published in a portion of Southwestern territory as exceptions in the form of commodity rates. The mixtures applicable to the Hardware Mixture covers everything from lamp chimneys to door hinges and nails and covers the movement of these commodities in small packages constituting the expensive freight that must be handled in small lots as distinguished from the truckload lots. This mixture was initiated by the railroads through the filing of an application to the Railroad Commission of Texas to

make the Hardware Mixture applicable on intrastate traffic. As in the case of the grocery mixture, the rail lines alleged [fol. 2262] that the hard· ·.e mixture exception was necessary in order to meet private carrier competition. The motor carriers opposed the application on the ground that no private carrier competition existed for the handling of any-quantity freight, and that reductions in the rates on the small lots any-quantity freight would have no bearing upon the private carrier competition. Subsequent events have confirmed our judgment in the hardware mixture, as it did in connection with the grocery mixture.

In Exhibit No. 111, Section 1, I have presented a statement of the commodities contained in the grocery mixture and compared the present rates on the grocery mixture with the present classification basis and Jensen Scale rates on the same commodities. The items in Section I of Exhibit 111 are the generic descriptions of the commodities, and there are many subdivisions of the commodities listed. In addition, where there were several commodities that would come under the same description, such as dessert preparations, we have used one of the common items frequently moving by common carrier motor l ·ies rather than using all of the dessert preparation descriptions separately. The comparisons are for 50, 100, 150 and 200 mile blocks. Under the heading of "Present Rates," the rates as contained in the commodity description for 50, 100, 150 and 200 miles are shown. These rates on the grocery mixture are applicable on a shipment of 500 pounds, but there can be one [fol. 2263] consignor for each 100 pounds in the 500 pound lot, and there can be as many consignees as you have additional 100 pounds; in fact, the 500 pound minimum applicable in connection with the grocery mixture is altogether meaningless. In the next column of Section I, I have shown the classification rating that is now applicable to the commodities listed in Section I. By applying this classification rating in Section III of the exhibit, the normal classification rates can be established for the distances of 50, 100, 150 and 200 miles. For instance, on fruit jar caps or bottle caps rated first class in the classification, the present rate for 50 miles is 30 cents. The normal classification rating for that distance is 67 cents, and is shown in Section III of this exhibit. By using the classification rating shown in Section I of the exhibit, the

full classification basis can be established for the distances shown under the heading, "Present Rates."

Under the heading, "Rates-Jensen Scale," for the 50, 100, 150 and 200 miles, I have shown the rates which would result under the scale proposed by Witness Jensen and applying the full classification rating shown on the exhibit. Attention is called to the fact that the proposed Jensen scale with the full application of the present classification basis would reduce the ridiculously low rates that are now applicable to the grocery mixture in many instances. For instance, canned goods in tin would be reduced at 50 miles [fol. 2264] from 30 cents per 100 pounds to 20 cents per 100 pounds. The 20 cents would just about cover the cost of pickup and delivery at the smaller terminals, but would not cover it in the larger terminals.

Section II of Exhibit 111 contains an identical statement to that set forth in Section I except that it is applicable to the hardware mixture. The same set-up has been presented in connection with the hardware mixture as I have presented in connection with the grocery mixture. The hardware mixture is applicable to shipments of 300 pounds or more.

The grocery mixture and the hardware mixture have been presented as illustrative of the type of publications heretofore made by the railroads, which has not been successful in retrieving the tonnage of private carriers although such publications were made on the alleged basis that they were to regain this tonnage. These two mixtures are the two outstanding mixtures initiated by the railroads for that purpose, and they include a substantial portion of commodities moving in any-quantity lots throughout the Southwestern territory. There are other mixtures similar to these known as drug mixture, furniture mixture, packing house product mixture, dry goods mixture, paper and paper article mixture, etc. The combined effect of these mixtures has been to break down the any-quantity classification rate structure throughout the Southwestern territory. They have all been published on the alleged private-carrier com- [fol. 2265] petition theory, but in our judgment they have not met private carrier competition, and the best evidence of that fact is that the private carriers have continued to operate and continued to handle these commodities when they were available in truckload movements for distribu-

tion into the territory ordinarily and customarily served by the private carrier operating his own trucks.

I prepared Exhibit No. 111, Sections I, II and III, and I state that the exhibit is true and correct to the best of my knowledge and belief.

Mr. Reed: The witness is now presented for cross-examination, if the Commission please.

Chairman Aitchison: Does anybody desire to cross-examine Mr. Hughett? (No response.) Apparently not.

Mr. Reed: At this time, I offer Mr. Hughett's Exhibit 111 for identification, in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 111, Witness Hughett, received in evidence.)

Chairman Aitchison: You may be excused.

(Witness excused.)

Mr. Reed: Mr. Sanford.

R. F. SANFORD was sworn and testified as follows:

Mr. Reed: If the Commission please, Mr. Sanford has also prepared a statement of his testimony, in which he [fol. 2266] merely concurs in the testimony of the preceding witness, Mr. Hughett, with respect to certain operating features of the Southwest. This statement likewise was distributed more than two weeks ago to all of the parties whose names were given us at the Indianapolis hearing. It is not necessary, so far as we are concerned, to have Mr. Sanford read his statement into the record, unless it is so desired.

Chairman Aitchison: Without objection, this statement also may be copied into the record, as was done with Mr. Hughett's testimony.

(The statement is as follows:)

The Witness: My name is R. F. Sanford. I am Vice President and General Manager of the Red Arrow Freight Lines, Inc., with headquarters in Houston, Texas. I have been connected with that company 11 years. I have had 25 years traffic and transportation experience with railroad, steamship and motor lines in Southwestern territory.

The Red Arrow Freight Lines, Inc., covers most of the principal points in Texas, operating from Dallas and Fort Worth on the north, through Palestine and East Texas into Houston; Fort Worth through Waco into Houston; from Houston through Austin and San Antonio to the Rio Grande Valley; from San Antonio through Stephenville to Dallas and Fort Worth. Our line serves numerous intermediate points between the terminals described.

[fol. 2267] I am familiar with the history of the rates established in connection with the Grocery Mixture and the Hardware Mixture and other such mixtures throughout the Southwestern territory by the rail lines, which rates were met by the common carrier motor lines. I have been connected with the Red Arrow Freight Lines, Inc., during all the period that the Grocery Mixture and the other mixtures have been in effect.

It has been our experience that such rates on less-than-carload and less-than-truckload traffic do not meet private carrier competition and that they have no bearing upon and no effect upon such competition.

It has been our experience that private carrier competition exists for truckload lots within the trade area of a particular industry operating the private vehicle. We have never yet experienced any competition from private carriers for the any-quantity or small lot shipments. On the contrary the industries that do operate their own private transportation vehicles customarily deliver to the common carrier motor lines the small package freight for transportation to destination. Frequently the industries operating private vehicles of their own will haul the truckload freight into the same destination territory to which we haul the small package freight for the same industry.

I have read the testimony of witness Hughett and I have examined the exhibit of Witness Hughett. I state that [fol. 2268] it has been the experience of our line and to my knowledge the experience of other common carrier motor lines in the Southwestern territory that rates such as the Grocery Mixture and the Hardware Mixture do not in any way retrieve traffic from private carriers. Private carrier competition has never existed and does not now exist for the any-quantity lot and the small shipments that customarily move in less than truckload and less than carload lots.

Furthermore it has been the experience of our company and the other carriers generally in the Southwestern territory that rates published in the manner, such as the Grocery Mixture, do not meet contract carrier competition. The contract carrier competition is substantially similar to that of the private carrier and it does not exist for the small package, less than carload and less than truckload freight, such as does move on the Grocery Mixture, Hardware Mixture and mixture rates made on other commodities.

Mr. Reed: The witness is now presented for cross-examination.

Chairman Aitchison: Does anyone desire to cross-examine the witness? (No response.) Apparently not. You are excused.

The Witness: Thank you.

(Witness excused.)

Mr. Reed: If the Commission please, I correctly under-[fol. 2269] stand, do I, that Mr. Sanford's testimony is likewise to be copied into the record by the Reporter.

Chairman Aitchison: Yes.

Mr. Reed: Thank you.

Chairman Aitchison: Now, gentlemen, are there any further witnesses who desire to be heard at this time as an emergency matter?

Mr. Gray: If the Commission please, I am prepared to proceed at this time, for the State of Kansas. There is one witness whom it may be necessary to put on later, some time this afternoon; but I am prepared to go ahead with my other witnesses at this time.

Chairman Aitchison: You may proceed.

Mr. Gray: Mr. Stevick, will you take the stand, please.

J. F. Stevick was sworn and testified as follows:

Direct examination.

By Mr. Gray:

Q. Please state your name.
A. J. F. Stevick.
Q. Your residence?

A. Topeka, Kansas.

Q. What is your occupation?

A. I am acting rate expert for the Kansas State Corporation Commission, Topeka, Kansas.

[fol. 2270] Q. How long have you been engaged as rate expert for the Corporation Commission of Kansas, Mr. Stevick?

A. Since May of this year, I have been taking the place of the regular rate expert for the Commission, who is now in the armed forces of the United States. I have been associated with the Kansas Corporation Commission since 1933, however, as assistant to the rate expert, except for a period of two years, during which time I was with the Springfield, Missouri, Chamber of Commerce.

Q. Over what period of time does your experience as a rate expert extend?

A. Well, prior to 1933 I had five years experience with the Traffic Association of Topeka, Kansas, and prior to that time, I was for several years with the Atchison, Topeka & Santa Fe Railway Company, in the Freight Auditor's department.

Q. You are appearing in this proceeding on behalf of the Kansas Corporation Commission, and the Kansas Industrial Development Commission, are you not?

A. Yes, sir.

Q. Now, have you personally prepared an exhibit, for the purpose of introduction in this proceeding?

A. Yes, sir.

Mr. Gray: At this time, if the Commission please, may we *we* have Mr. Stevick's exhibit marked for identification.

[fol. 2271] (Exhibit 112, Witness Stevick, marked for identification.)

By Mr. Gray:

Q. Mr. Stevick, is the exhibit which has just been identified as Exhibit 112, the exhibit which you prepared?

A. Yes, sir.

Q. Is it fairly self-explanatory?

A. I believe it is self-explanatory, yes, sir.

Q. Do you have any comment to make, then, with respect to any matter that perhaps may not be clearly shown on the face of the exhibit?

A. No, sir, I do not think I have anything to add. I believe that the exhibit is fully self-explanatory.

Mr. Gray: At this time, if the Commision please, I offer Mr. Stevick's Exhibit 112 for identification in evidence.

Chairman Aitchison: Is there any objection? (No response.) Without objection, it is received.

(Exhibit 112, Witness Stevick, received in evidence.)

Mr. Gray: The witness is now ready for cross examination, if the Commission please.

Chairman Aitchison: Cross examine.

Cross-examination.

By Mr. Hughes:

Q. Mr. Stevick, on pages 2 and 3 of your Exhibit 112, you list a number of commodities, and you set out various [fol. 2272] tables as to rates.

A. That is right.

Q. To what extent do the commodities which you list on those pages, move upon class rates?

A. Well, I would not know about that. They are all named in the classification, however.

Q. Well, you cannot state, then, whether the rates that you show as applying to these commodities in your exhibit, that is, the class rates, are the rates upon which the commodities actually move, can you?

A. Well, I might say this, in answer to your question, that these are not the going rates. In other words, what I mean is this, that they are the average rates—or, they are based on the average of the Eastern scale and the Western Trunk Line zone 2 and zone 3 scales.

Q. Well, they are the rates that you can get out of the tariff, but they are not necessarily the rates which apply to the traffic as it moves, as I understand you. Is that correct?

A. Right.

Mr. Hughes: Thank you.

Chairman Aitchison: Is there any further cross examination of the witness? (No response.) You are excused.

(Witness excused.)

Mr. Gray: Mr. Dade, will you take the stand, please.

[fol. 2273] E. B. Dade, was sworn and testified as follows:

Direct examination.

By Mr. Gray:

Q. Please state your name.

A. E. B. Dade.

Q. Your residence?

A. Lawrence, Kansas.

Q. By whom are you employed?

A. I am employed by the University of Kansas, as professor of statistics. I have been employed by the University of Kansas, during the academic year, continuously since 1921.

Chairman Aitchison: Is this confidential? We could not hear a word of the answer up here.

(Answer read.)

By Mr. Gray:

Q. Will you please continue with the statement of your qualifications.

A. I have been employed for special jobs by the Kansas State Corporation Commission and the Kansas Industrial Development Commission during the past summer.

Q. What degrees, if any, do you hold in the fields of mathematics and statistics?

Q. I have an A.B. in economics from the University of Kansas; an A.M. degree in economics from the University of Kansas; and I have done extensive graduate study in mathematics and statistics.

[fol. 2274] Q. You are at the present time teaching statistics in the University of Kansas, are you not?

A. Yes, sir.

Q. Are you the author of any published works, involving statistics?

A. I am coauthor of a book of annuity tables assigned for use by Building & Loan Associations, and other financial institutions.

Mr. Gray: At this time, if the Commission please, may we have the exhibit which will be submitted by the witness marked for identification.

(Exhibit 113, Witness Dade, marked for identification.)

By Mr. Gray:

Q. Have you at the request of the Kansas Corporation Commision and the Kansas Industrial Development Commission, personally prepared the exhibit which has been identified by the reporter as 113, for presentation in this proceeding?

A. Yes.

Q. Is that exhibit in the nature of a comparative cost study, a study of the cost of handling freight traffic in Kansas as compared to the cost of handling freight traffic in the State of Missouri?

A. Yes, sir.

Q. Is the exhibit self-explanatory?

A. Why, I believe that the exhibit is very largely self-[fol. 2275] explanatory, yes, sir.

Q. Is there any comment that you feel ought to be made, to make the exhibit more clear? If so, will you please proceed.

A. Why I think possibly that there might be a few comments made of a general nature, that would be helpful to a better understanding of the study. I might say at the outset that it consists of 54 numbered pages of text, with tables and charts interspersed. The data upon which this study is based were supplied to the Kansas Corporation Commission and the Missouri Public Service Commission, by carriers in Kansas and Missouri, and also data supplied to the Interstate Commerce Commission, as shown in their annual reports. The data are for 1940. The table on page 5 shows the mileages of roads in Kansas and Missouri by companies. These mileage data were included in the exhibit to show the amount of overlap of management between the two states.

Q. All of the tables are fully explained in the text of the exhibit, are they not?

A. Largely so, yes, sir.

Q. Are there any corrections in any part of the text, that ought to be made?

A. There are no corrections to be made in the text, no, sir. There are a few typographical errors associated with some of the tables, I might say. However, those are largely merely a matter of incorrect letters, and probably are not [fol. 2276] even worth taking the time to mention.

Q. Now, will you turn to page 36 of the exhibit, please.

A. Yes, sir.

Q. On that page, at the top of the page, where it says "System" on the right hand side, the numbers that appear directly under the word "System" are wrong, are they not?

A. Not to my knowledge, no, sir.

Q. Should they not be, 46B and 44C,—in other words, carrying those letters, instead of the numbers as they now show?

A. Well, now, I believe that that is correct, yes, sir. In the first table, table XI, on page 22, in the last line of the heading, those figures should be 41B and 40B, instead of 416 and 406, as they now appear. The footnote at the bottom of page 19 of the exhibit——

Chairman Aitchison: Now, just a moment. Let us get this straight. We are going to have some confusion in the record.

The Witness: Pardon me?

Mr. Gray: There are just a few errors in the exhibit, if the Commission please, to which I have asked the witness to call your attention at this time. Will you state the first correction again, please.

The Witness: On page 22 of the exhibit, as shown under the title, in the last line of the title, you see the figure 416 [fol. 2277] divided by 406. That should be 41B divided by 40B.

Mr. Gray: There should not be any third figure there, in other words.

The Witness: Right.

Mr. Hughes: What should it be? 41B?

Mr. Gray: 41B and 40 B.

Mr. Hughes: 41B divided by 40B?

Mr. Gray: Yes.

Mr. Hughes: In other words, the figure "6" should be stricken out in each case, and the letter "B" substituted; is that right?

Mr. Gray: Yes.

By Mr. Gray:

Q. Now, are there any other corrections which should be made in the exhibit, to which you wish to call attention?

A. Yes, sir, there is a correction in table XIX, on page

38, in the footnote. The first sentence in the footnote should read "Estimated by allocating 75 per cent of Kansas taxes to freight service and 6.1 per cent of U. S. payroll taxes to Kansas freight service." In other words, there are some words interspersed there—or rather, out of order there.

Mr. Hughes: How is that again?

The Witness: In the second line of the footnote, it says [fol. 2278] now "payroll add U. S." etc. The "add" comes out, and the "U. S." goes in front of the words "pay roll", which will then make it read "6.1 per cent of U. S. pay roll taxes."

By Mr. Gray:

Q. Does that complete the corrections?

A. Yes, sir.

Q. This exhibit was personally prepared by yourself, was it?

A. Yes, sir.

Mr. Gray: At this time, if the Commission please, I offer Exhibit 113 in evidence.

Chairman Aitchison: Is there any objection?

Mr. Weeks: If the Commission please, I desire to enter an objection to the acceptance of the exhibit, until I have had an opportunity to examine the witness briefly with respect to it.

Chairman Aitchison: You may propound your questions, then.

By Mr. Weeks:

Q. Mr. Dade, I believe you stated that you personally prepared this exhibit. Did I understand you correctly?

A. Yes, sir.

Chairman Aitchison: Just a moment. You are representing whom, please?

Mr. Weeks: The Missouri Public Service Commission.

Chairman Aitchison: Continue.

The Witness: That is correct.

[fol. 2279] By Mr. Weeks:

Q. Will you tell me, please, where you got the information shown in the exhibit as having been taken from Missouri Public Service Commission reports?

A. From the reports which were sent by the Public Service Commission of the State of Missouri, to the Kansas Corporation Commission, in part, and partly from a transcript of the Missouri reports which had been made for the Kansas Corporation Commission.

Q. Who made that transcript?

A. Mr. Gray.

Q. The gentleman who was just examining you?

A. Yes, sir.

Q. Well, then, as a matter of fact, you did not personally prepare the complete exhibit, did you?

A. I did not hear.

Q. I say, in view of your testimony just now, you yourself did not prepare the complete exhibit, did you?

A. The exhibit, as it has been presented here, I did prepare myself, yes, sir.

Q. But you are not certain about the correctness of the underlying data to the exhibit, are you?

A. The only underlying data which were involved in the question you just asked me, have to do with the consist of freight traffic in Missouri.

Chairman Aitchison: Well, the question was, you are [fol. 2280] no sure about the accuracy of the underlying data, are you?

The Witness: Well, I did not do the transcribing myself, your Honor, but I am very confident that the job was accurately done—yes, sir.

By Mr. Weeks:

Q. But you cannot testify, as a matter of fact, to its accuracy yourself, can you?

A. No, sir, I don't want to testify to that.

Mr. Weeks: In view of the testimony of the witness, if the Commission please, I object to the reception of this exhibit into evidence in this proceeding, on the ground that the witness, by his own admission, is not qualified to testify to its accuracy.

Chairman Aitchison: The objection is overruled. If there are any errors in the exhibit, they can be pointed out.

Mr. Weeks: Well, then, if your Honor please, may I ask some further questions about the exhibit?

Chairman Aitchison: Yes.

By Mr. Weeks:

Q. Will you please explain, Mr. Dade, why you have assigned all of the mileage of the Missouri Pacific Railroad in the State of Missouri, to North Missouri?

A. The division of material in the tables is as follows: The Kansas columns include all of the Kansas data. The columns headed "North Missouri" do not refer to North Missouri as a territory, or as a section of the State of Missouri, but to certain railroads designated as North Mis- [fol. 2281] souri Railroads. The material was not broken down by those roads on a North Misouri-South Missouri basis. All of the railroads, the main lines of which are north of the Kansas City-Jefferson City-St. Louis line, were included in the North Missouri set-up. That includes the line of the Missouri Pacific Railroad in the North Missouri group, although the Missouri Pacific line—or system, has a line of railroad operating *south of* that line.

Q. Well now, if that was your basis for assigning these roads to North Missouri and South Missouri, why did you put the Missouri-Kansas-Texas Railway in South Missouri, when the main line of that railway is north of the Missouri River?

Chairman Aitchison: Just a moment. Apparently, now, you are getting away from your objection, which appears to be to the weight of the exhibit.

Mr. Weeks: I am just trying to determine, if your Honor please——

Chairman Aitchison: Let me finish, please.

Mr. Weeks: Pardon me.

Chairman Aitchison: You asked, before the offer of the exhibit was ruled on, to be permitted to examine the witness with respect to the exhibit.

Mr. Weeks: That is correct.

Chairman Aitchison: And you now appear to be getting [fol. 2282] away from that specific matter.

Mr. Weeks: You do not want me to continue to interrogate the witness, then?

Chairman Aitchison: No further along that particular line, no.

Mr. Weeks: Then that is all of the qeustions that I care to ask him at this time, your Honor.

Chairman Aitchison: Is there any further objection to the exhibit, other than the one which has already been overruled?

Mr. Weeks: No further objection.

Chairman Aitchison: Exhibit 113 will be received, then, subject to check.

(Exhibit 113, Witness Dade, received in evidence.)

Mr. Gray: The witness is now ready for cross examination, your Honor.

Chairman Aitchison: Cross examine.

Mr. Weeks: I have some cross examination also, your Honor.

Chairman Aitchison: You may continue.

Cross-examination.

By Mr. Weeks:

Q. Mr. Dade, I did not fully understand why you assigned the Missouri-Kansas-Texas line to South Missouri, when you said you undertook to assign the railroads to [fol. 2283] North Missouri and South Missouri depending upon whether their main lines were north or south of the Missouri River. Will you please explain that further.

A. Well, this particular division of the lines——

Q. A little louder, please.

A. I say, this particular division of the railroad lines was one which I was inclined to believe was customarily followed in the division of railroad lines into these two groups in the State of Missouri.

Q. Well, do you know what difference it might have made in your showing had you assigned the Misouri-Kansas-Texas line to South Missouri, that portion of the Missouri Pacific to South Missouri that is located in South Missouri, and that portion in North Missouri that is located in North Missouri.

A. Well, I am inclined to believe that it would have made very little difference, because the Missouri Pacific particularly was very nearly in line, with respect to either side of the state, in so far as railroad lines are concerned. In my judgment, it would have made very little if any difference one way or the other.

Q. In your comparison of the percentages of gross revenue and gross expenses of these systems, did you give any consideration to the fact that there are large terminals located at Kansas City, Missouri, and St. Louis, Missouri?

A. No data were included in this study, as to terminal [fol. 2284] railroad lines not operated by railroad companies that were included in the exhibit.

Mr. Weeks: I believe that is all I have to ask. Thank you.

Chairman Aitchison: Is there any further cross examination?

Mr. Hughes: Mr. Chairman, the Western carriers would like to reserve their right to cross examine this witness. This exhibit has just been introduced; it is rather complicated; and the Western carriers desire an opportunity to do something more than merely make a cursory examination of it.

Chairman Aitchison: Will you be available?

The Witness: Yes, for a while.

Chairman Aitchison: You had better not go away until you have been finally excused.

The Witness: All right.

Chairman Aitchison: Temporarily, however, you may leave the stand.

(Witness excused.)

Mr. Gray: If the Commission please, I would like to have the cross examination of the last witness concluded just as soon as possible, so that he can get back.

Chairman Aitchison: I know, but you have presented a rather substantial exhibit here.

[fol. 2285] Mr. Gray: But it was distributed at the beginning of the hearing today.

Chairman Aitchison: Well, there has been no opportunity, of course, during the course of the hearing, to carefully examine an exhibit like this. Let us have the next witness, please.

Mr. Gray: Mr. Frye, will you take the stand, please.

JOHN C. FRYE was sworn and testified as follows:

Direct examination.

By Mr. Gray:

Q. Mr. Frye, will you give your full name to the Commission, please.

A. John C. Frye.

Q. Where do you live?

A. Lawrence, Kansas.

Q. What is your position?

A. Assistant State Geologist, and Assistant Director of the State Geological Survey of Kansas.

Q. How long have you been engaged in your present position?

A. In the exact position which I am holding at the present time, since the first of this year. However, I have been employed in Geological Survey work in Kansas for four and a half years, prior to the first of this year having been associated with the United States Geological Survey.

Q. Prior to when?

[fol. 2286] A. To the first of January of this year.

Q. Prior to that time you were with the United States Geological Survey?

A. Yes.

Q. Were you at that time located in Kansas?

A. All of my time, during that time, has been spent in Kansas, yes, sir.

Q. Do you hold any degrees in the field of geology?

A. Yes, sir, I have a Bachelor degree, Master of Science, and a Ph.D. degree in geology, the latter two from the University of Iowa, and the former from Marietta College.

Q. In connection with this proceeding, at the request of the Kansas Corporation Commission and the Kansas Industrial Development Commission, have you had prepared, under your supervision and direction, an exhibit?

A. Yes.

Mr. Gray: If the Commission please, may we have Mr. Frye's exhibit marked for identification at this time.

(Exhibit 114, Witness Frye, marked for identification.)

By Mr. Gray:

Q. Is the exhibit which has just been identified by the reporter as Exhibit 114, the exhibit to which you refer?

A. Yes, sir.

Q. Does that exhibit purport to cover, briefly, the mineral resources of the State of Kansas?

[fol. 2287] A. Very briefly, yes.

Q. Now in connection with that portion of the exhibit that deals with aluminum from Kansas clays, referring to page 1: Have there been any developments since that

exhibit was prepared, in the field of the aluminum clays of Kansas?

A. The researches on this particular subject have been in progress for some time, but as far as any concrete development is concerned, my answer would have to be "No." In other words, it is still in the experimental—or rather, I should say, in the research stage, and will probably be for some little time yet. Up to the present moment, there has been no concrete development.

Q. Has the University produced any aluminum from Kansas clays, however, in the experimental stages of the research?

A. Yes, sir, on numerous occasions.

Q. Is it your opinion that that does or does not indicate promise of commercial development?

A. Oh, the cost figures that we have arrived at, on a laboratory scale of course, seem to be very favorable. However, we would not be able to make any definite statement in that respect, until it has gone through the pilot plant stage, as we refer to it.

Q. Is that being planned, at the present time?

A. Yes, sir.

Q. Are the matters which are set out in your Exhibit 114 [fol. 2288] for identification, true and correct, to the best of your knowledge and belief?

A. Yes, sir.

Mr. Gray: At this time, if the Commission please, I offer Mr. Frye's Exhibit 114 for identification, in evidence.

Chairman Aitchison: Is there any objection? (No response.) Without objection, it is received.

(Exhibit 114, Witness Frye, received in evidence.)

Mr. Reed: If the Commission please, I would like to know what the exhibit looks like.

Chairman Aitchison: If you will just look inside of the cover, Mr. Reed, and observe that it is all about geology, that will be enough for you. (Laughter.)

Mr. Reed: Dealing with Kansas clays?

The Witness: Yes.

Mr. Reed: Thank you. That is sufficient.

Chairman Aitchison: Is there any cross examination? (No response.) Apparently not. You are excused.

The Witness: Thank you, sir.

(Witness excused.)

Mr. Gray: Mr. Duff, will you take the stand, please.

L. F. Duff was sworn and testified as follows:

[fol. 2289] Direct examination.

By Mr. Gray:

Q. Mr. Duff, will you give your full name to the Commission, please.

A. L. F. Duff.

Q. Where do you reside?

A. Pittsburg, Kansas.

Q. What is your employment?

A. Office Manager, and Traffic Manager.

Q. For what company?

A. McNally-Pittsburg Manufacturing Corporation.

Q. How long have you been connected with the McNally-Pittsburg Manufacturing Corporation?

A. Approximately 20 years.

Q. What is the nature of the business that is carrier on by that concern?

A. The manufacfure of coal preparation plants, and washeries.

Chairman Aitchison: What is the answer?

(Answer read.)

By Mr. Gray:

Q. Mr. Duff, for the benefit of the record, will you please give us a little more detail and complete description of the commodity which is produced by your company; its use, the method of its manufacture, and so forth.

A. It is used in the preparation, breaking down and sizing of coal, and the washing and removing of impurities.

Q. Does your company manufacture the complete unit at [fol. 2290] Pittsburg, Kansas, and ship it from there?

A. Yes, sir.

Q. Is it largely manufactured from iron and steel?

A. Yes, sir.

Q. In your manufacturing process, do you have occasion to receive shipments of iron and steel inbound, which you then fabricate, and ship in the form of the finished product outbound?

A. Yes, sir.

By Com. Alldredge:

Q. Are the units standardized, or made to order?

A. They are made to the specifications of the consumer—or of the purchaser, rather.

By Mr. Gray:

Q. Are the units, as you sell them, installed by your firm?

A. Yes.

Q. In other words, you offer a complete service, then, in the way of building and installing; is that correct?

A. Yes, sir, completely erected.

Q. Now, the prices at which you sell your product: Are they f.o.b. destination?

A. Yes, sir.

Q. So that your company directly pays the freight on the product, as it sells it?

A. Yes, sir.

[fol. 2291] Q. Is the matter of freight expense an important consideration in your business?

A. Very much so.

Q. Do you know what rate your outbound shipments take?

A. Yes, sir, they take a class rate.

Q. What rate?

A. 45 per cent.

Q. 45 per cent of what?

A. Of first class.

Q. That is your outbound rate?

A. Yes, sir.

Chairman Aitchison: Fifth class?

By Mr. Gray:

Q. That is fifth class, is it?

A. Yes.

Q. 45 per cent of first class?

A. Yes, sir.

Q. In Western Trunk Line Territory?

A. Yes, sir.

Q. Now then, when you get over into Eastern Territory, do you know what that rate changes to?

A. 40 per cent.

Q. When you ship into Eastern Territory, the percentage of the rate then becomes 40 per cent, does it?

A. Yes, sir.

Q. Now, do you know what rate applies on the inbound [fol. 2292] shipments of your steel?

A. 32.5 per cent of first class.

Q. Is that a classification rating, or an exception?

A. An exception rating.

Q. At what points are the competitors of your company located, against which your company competes?

A. Chicago, Columbus, West Virginia, and Pittsburgh.

Q. Chicago, Illinois?

A. Yes, sir.

Q. Columbus, Ohio.

A. Yes, sir.

Q. Pittsburgh, Pennsylvania?

A. Yes, sir, and West Virginia.

Q. Now, when your commodity is shipped outbound, under what description does it move?

A. Machinery noibn.

Q. It takes the description of machinery noibn, does it?

A. Yes, sir.

Q. Has your company ever experienced any difficulty in meeting competition from these various points which you have just enumerated, by reason of its freight rate out of Pittsburgh, Kansas, as compared to the freight rate from the points where its competitors are located?

A. Yes.

Q. Do you know of any instances where your company [fol. 2293] has had to forego business because of that difference in freight rates?

A. Yes, sir, I have in mind just at the moment two of them in Pittsburgh.

Q. Pittsburgh, Pennsylvania?

A. Yes, sir. One of them was in connection with the Crucible Steel Company, and the other—well now, right offhand, I cannot think of the name of the other company.

Q. Well, has your company encountered any difficulty in that same regard, at any other points?

A. Yes, sir; we have also runs into some of that in Ohio, and also in West Virginia.

Q. Do you know whether or not your company is at the present time considering moving from Pittsburg, Kansas, into Official Territory?

A. Yes.

Q. Is it, or is it not?

A. Yes, it is.

Q. Do you know whether or not any definite conclusion has as yet been reached by your company, with respect to that?

A. Not definitely.

Q. But you do understand, or do you know, rather, that at the present time the company is considering that matter?

A. Yes, sir.

Q. Does the fact that your freight rate level, the level of [fol. 2294] your class rates, is somewhat higher than the level of the rates in Official Territory, have anything to do with your company considering moving to Official Territory?

A. Oh, yes.

Q. If the level of your rates were relatively the same as the level of rates in Official Territory, would your company still consider moving from Pittsburgh, Kansas, into Official Territory?

Mr. McCollester: Is the witness in a position to answer that question?

By Mr. Gray:

Q. Do you know?

A. Yes, I know.

Q. Knowing that, what is your answer to my question?

A. We would not move, under those circumstances.

Q. Now, Mr. Duff, I will ask you to state whether or not any communities located in Official Territory have ever approached your company, in an endeavor to get it to move from Pittsburg, Kansas, into such community or communities in Official Territory?

A. Yes, sir.

Q. What community or communities have done that?

A. Cincinnati, Ohio.

Q. Now in under king to get your company to move from Pittsburgh, Kansas, to Cincinnati, Ohio, did these peo-

ple who approached your company offer any inducement of any kind?

[fol. 2295] A. Yes.

Q. What?

A. Lower freight rates.

Q. And did they undertake to prove to your company that the freight rates out of Cincinnati, Ohio, were more favorable then they were out of Pittsburg, Kansas?

A. Yes, sir.

Mr. Schwietert: Where to?

The Witness: To our consuming territory.

By Mr. Gray:

Q. To the territory into which you ship your product; is that correct?

A. To Eastern territory.

Chairman Aitchison: Well, if you were in Cincinnati, you would not deprive yourself of that territory, would you?

By Mr. Gray:

Q. What is the destination territory, Mr. Duff, into which your company ships?

A. Oh, we ship to all of the eastern states: Pennsylvania, West Virginia, Ohio, Indiana, and Kentucky. We ship to all of the coal fields.

Q. How about Colorado?

A. Very little in Colorado.

Q. How about Oklahoma?

A. Nothing in Oklahoma.

Q. Arkansas?

A. Nothing.

[fol. 2296] By Chairman Aitchison:

Q. Why not?

A. Sir?

Q. Why do you not go down into Arkansas?

A. Well, about the only answer that I can give you is that we just have not been able to get in there.

Q. They have some coal mines there, have they not?

A. Well, at the time we were considering trying to enter Arkansas, the financial condition there was not so good.

By Mr. Northcutt:

Q. Do they wash coal down there?
A. I presume so.
Q. You do not know?
A. We have no coal washeries in Arkansas.

By Mr. Gray:

Q. How about Alabama?
A. We have some in Alabama.

Mr. Gray: That is all.
Chairman Aitchison: Cross examine.

Cross-examination.

By Mr. Hughes:

Q. Mr. Duff, from what source do you draw the iron and steel which your company uses in the manufacture of these coal washeries, and so forth?
A. That is shipped from Chicago, and also from Granite City.
Q. Illinois?
A. Yes, sir.
Q. You purchase your raw materials, then, in the way of iron or steel, at Chicago or Granite City, Illinois, bring [fol. 2297] them out to Pittsburg, Kansas, fabricate them, and then ship the finished product back into the same territory from which you derive the raw materials; is that correct?
A. Yes, sir.
Q. You are doing no business in Arkansas, as I understand it?
A. No.
Q. And none in Oklahoma?
A. No, sir.
Q. And none in Colorado, or Wyoming?
A. Right.

Mr. Hughes: That is all.

[fol. 2298] By Mr. Barron:

Q. How long have you been located in Pittsburg, Kansas?
A. I have been there since 1918. The plant was just a very small plant when I went there.

Q. Do you know the reasons why your company located at Pittsburg?

A. Well, at the time it was located there, there was a small boiler factory serving the deep shaft mines and the repairing of boilers and tanks and things of that sort.

Q. Your washers are all patented, are they not?

A. That is correct.

Q. You know there is enormous coal production in Colorado and New Mexico, around Raton and Dawson in New Mexico and Colorado City and Walsenburg, Colorado, in southern Colorado?

A. That is right.

Q. Has the freight rate prevented you from distributing your patented article in that territory?

A. We have lost some business there, yes, sir.

Q. To whom?

A. I believe Link Belt.

Q. Link Belt at Chicago?

A. That is right.

Q. Do you know whether the rate from Chicago to Walsenburg, Colorado, or Raton, New Mexico, is higher or lower than from Pittsburg?

[fol. 2299] A. It would be lower, the through rate via Pittsburg, than to Colorado.

Mr. Barron: I do not believe you understood my question.

By Mr. Barron:

Q. I am talking about your patented article from Pittsburg direct to Walsenburg or Raton.

A. Well, the rate from Pittsburg would be cheaper, yes, than from Chicago.

Q. Now, you talked about contemplating locating at Cincinnati.

A. Yes.

Q. You have been considering that for about two years, have you not?

A. Longer than that; three or four years.

Q. You contemplate putting up a branch at Cincinnati, do you not?

A. Our contemplation was to move our plant here, to Cincinnati

Q. But you have not moved it for four years; you have been thinking about it, is that right?

A. Very much so, yes.

Q. That is to take care of the distribution of your patented article in the East, in states such as Illinois, Indiana and Kentucky, is that right?

A. That is right.

Q. You have not any idea of distributing your product [fol. 2300] in the Western Territory?

A. We have had no business in that district.

Q. Have you tried to get business out there?

A. We have a man there.

Q. Do you know the reasons why you do not get it?

A. No. I could not state those.

Mr. Barron: Thank you, sir.

Chairman Aitchison: Are there any other questions of this witness? (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Keas, are you ready to go on now? Raise your right hand and be sworn.

R. K. Keas, was sworn and testified as follows:

Direct-examination.

The Witness: My name is R. K. Keas. Mr. Chairman, I have one exhibit which I would like to have marked for identification at this time.

Chairman Aitchison: It may be marked for identification as Exhibit No. 115.

(Exhibit 115, Witness Keas, marked for identification.)

Chairman Aitchison: Proceed.

The Witness: I am Traffic Manager of Laclede Steel Company, with general offices in St. Louis, Missouri, engaged in the manufacture of iron and steel articles at [fol. 2301] plants in the St. Louis-East St. Louis Industrial District. I have held this position since 1920. During the period of the last twenty years I have been closely in touch with and made a study of carload rates applicable to the transportation of manufactured iron and steel articles in all the rate territories of the United States. The exhibit

which I shall present is offered as well for the Granite City Steel Company, also engaged in the manufacture of iron and steel articles in the St. Louis-East St. Louis Industrial District.

The exhibit is marked for identification No. 115. Set A of the exhibit, consisting of three pages marked 1, 2 and 3, is a statement for various mileage blocks from 5 to 1,200, of the following: In the first column, the first class rates prescribed by the Interstate Commerce Commission in the Eastern Class Rate Investigation, Docket 15879. In the second column, the carload rates prescribed by the Commission for the transportation of manufactured iron and steel articles (Docket 17,000, Part 6) for application in the same territory. In the third column, the percentage relationship which the iron and steel rates bear to the first class rates. By averaging these percentages, the manufactured iron and steel articles rates are 27.96 per cent of the first class rates in Official Territory. In the fourth column, the scale of rates prescribed by the Interstate Commerce Commission for application on manufactured [fol. 2302] iron and steel articles, carload, in Zone 3 of Southwestern Territory, in the 21st Supplemental Report of the Consolidated Southwestern Case Docket 13535. In the fifth column, the percentage relationship of Zone 3 iron and steel rates to the rates prescribed for application on manufactured iron and steel articles in Official Classification Territory shown in the second column (marked B). It will be observed that the iron and steel carload rates prescribed for application in Zone 3 bear no uniform relationship to the rates prescribed on such articles for application in Official Classification Territory. The average relationship, however, of the Zone 3 rates to the Official Territory rates for mileage blocks up to 1200 is 171.49 per cent.

The same comparisons are made of the Zone 2 and the Zone 1 rates of Western Trunk Line and Southwestern Territories, applicable on iron and steel, carloads, and which appear in columns marked D and E, with the Official Territory iron and steel rates appearing in Column B. The average of the percentage relationships of the Zone 2 rates and the Zone 1 rates of the Official Territory rates are 156.8 per cent and 138.47 per cent, respectively. None of the rates on this set include the Ex Parte 148 increases.

Set B, consisting of three pages, is similar to Set A, except that the rates in Set B include the Ex Parte 148 increases.

Set C consists of two pages. In prescribing through [fol. 2303] rates between Official Classification Territory and Southwestern and Western Trunk Line Territories, the Commission in the 21st Supplemental Report of Docket 13535 and Rate Structure Investigation, Part 2, Docket 17,000, Western Trunk Line Class Rates, prescribed a basic scale for application through Official Classification Territory, in laminating the rates between that territory and the Southwestern and Western Trunk Line Territories. This set compares the Zone 3 rates prescribed on manufactured iron and steel articles, carload, in the Southwest, with and without the Ex Parte 148 increases, with the basic scale on manufactured iron and steel articles, carload, prescribed for application to Official Classification Territory on traffic moving interterritorially between the Southwest or Western Trunk Line and Official Territory. The percentage relationships of the rates are shown in the two columns at the right of the exhibit. Without the Ex Parte 148 increases the average relationship of the Zone 3 scale to the basic scale is 141.24 per cent, and with the increases 141.15 per cent.

Set D makes the same comparisons, with and without the Ex Parte 148 increases, of the Zone 1 and Zone 2 scales of carload iron and steel rates applicable in Western Trunk Line and Southwestern Territories with the basic scale hereinabove referred to. The percentage relationships of the rates for the various mileage blocks are shown.

[fol. 2304] Set E consists of two pages. In the first column are shown the first class rates applicable in Southern Territory; in the second column the carload iron and steel rates applicable in Southern Territory. Both of these scales of rates have been before the Interstate Commerce Commission for consideration and have either been prescribed or approved by the Commission. Each of these scales have been extended by mileage blocks up to 600 miles as that is practically the extent of Southern Territory from the iron and steel producing points within that territory, the principal manufacturing locations of which are centered around Birmingham, Alabama. It will be observed that the percentage relationship of the carload iron and steel rates to first class rates applicable in Southern Territory are

very much below the Column 32½ per cent basis applicable on said articles in the Southwest. The average of the percentage relationships which the iron and steel rates bear to first class for these mileage blocks is 24.8 per cent.

Set F consists of two sections numbered 1 to 5 and 1 to 29 inclusive; a total of 34 pages. This set is intended to show the measure and relationship of the iron and steel rates, carload, to first class rates from California producing points to destinations in Nevada, Arizona and New Mexico to the Texas border, Utah, Idaho, Wyoming and Oregon. Pittsburg, California, and Torrance, California, have been [fol. 2305] selected as representative California producing points, because there are located at such points very large iron and steel manufacturing industries, and the distances from these points are representative of the Pacific Coast iron and steel producing section of the country. In many instances the rates from the Pacific Coast iron and steel manufacturing locations are published to relatively small groups. In such cases the groups are shown and one or more centrally located destinations are used for comparable purposes. Under the heading of each origin the following information is shown:

In the first column, the short tariff distance to the destination, and immediately below it, the short line distance. In the second column, the first class rates appear. In the third column, the rate applicable to carload manufactured iron and steel articles.

In a number of instances there are dual rates applicable on both 40,000 pound and 80,000 pound minimums. In such cases the 40,000 pound minimum rates have been indicated by the Symbol X, and the 80,000 pound minimum rates by the Symbol Y. Following the symbols there is shown in the next column the percentage which the iron and steel carload rate bears to the first class rate. In the last column we have shown what the iron and steel rate would be at 32½ per cent of Zone 3 of the Consolidated Southwestern scale prescribed in the 21st Supplemental Report of that pro- [fol. 2306] ceeding, for the short line distance.

The relationship of all of the iron and steel to all of the first class rates from Pittsburg, California, is 25.71 per cent, and from Torrance, 25.02 per cent. The average of the 32½ per cent rates to all of these destinations, from Pittsburg, is 122.2 per cent, and from Torrance, 131.1 per

cent of the average of the present iron and steel rates applicable to 40,000 pound minimum.

It is our opinion, based upon our analysis of the rates on manufactured iron and steel articles, carload, throughout the United States that the Column 32½ per cent rates in the Southwest and Western Trunk Line Territory are in excess of maximum reasonable rates under Section 1 of the Act and are made too high a percentage of the first class rates in that territory.

I offer in evidence Exhibit No. 115.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit No. 115? (No response.) Without objection, it is received.

(Exhibit 115, Witness Keas, received in evidence.)

Chairman Aitchison: Mr. Keas, was your testimony and your exhibit distributed in advance to the parties?

The Witness: They were distributed just now.

Mr. Hughes: We just received them now.

[fol. 2307] Chairman Aitchison: In view of the fact that the parties have not had an opportunity to examine your exhibit and your testimony, I suggest that you return tomorrow morning for cross-examination.

The Witness: I will be glad to do so, Mr. Chairman.

Chairman Aitchison: Is there any objection to that procedure? (No response.) Mr. Keas will be excused for the time being, and will hold himself ready for cross-examination tomorrow morning.

(Witness excused.)

Chairman Aitchison: We will take a few minutes' recess.

(Short recess.)

Chairman Aitchison: Come to order, please, gentlemen. I understand the State of Nebraska is ready to go ahead. You may call your witness, Mr. Kokjer.

Mr. Kokjer: Dr. Filley, will you take the stand, please.

Chairman Aitchison: Raise your right hand and be sworn.

H. CLYDE FILLEY was sworn and testified as follows:

Direct examination.

By Mr. Kokjer:

Q. Dr. Filley, will you please give your full name and address and present occupation to the reporter.

A. My name is H. Clyde Filley. I am in charge of the Department of Rural Economics at the University of Nebraska. I have been connected with that university since 1911.

[fol. 2308] Q. Where do you reside?

A. I reside in Lincoln, Nebraska.

Q. What degrees do you have?

A. I hold Bachelor's and Master's degrees from the University of Nebraska, and I have a Doctor's degree from the University of Minnesota. I majored in agricultural economics, modern economics. I attended school for a time at the University of Chicago and am a graduate student.

Q. Have you had any works published in books or pamphlet form or in scientific journals along the line of your work?

A. I am the author of quite a number of agricultural experiment station bulletins. The largest of these is entitled "The Effects of Inflation and Deflation on Nebraska Agriculture." Several of them deal with farm management topics. I am the author of one book, "Cooperation in Agriculture."

Q. Have you prepared at the request of the Nebraska State Railway Commission an exhibit to be used at this hearing?

A. Professor Miller, in my department, and I, prepared one jointly.

Q. It was prepared by you and under your supervision?

A. Yes, it was.

Q. That is the mimeographed pamphlet entitled at the top "Industrial Resources of Nebraska"?

A. That is correct, in large lettering.

Q. Do you know that the facts and statements therein set [fol. 2309] forth are true and correct?

A. They are to the best of my knowledge and belief.

Mr. Kokjer: May we have a number for this exhibit, Mr. Chairman?

Chairman Aitchison: This exhibit will be marked for identification as Exhibit No. 116.

(Exhibit 116, Witness Filley, marked for identification.)

By Mr. Kokjer:

Q. Will you briefly explain this exhibit No. 116, Dr. Filley?

A. Nebraska is very largely an agricultural state. Practically all of the cereals that are produced in that state except wheat are fed to livestock. Some of the wheat is fed to livestock. Most of our hay is fed within the state to stock and even the sugar beet industry aids the livestock industry because the tops, the pulp, and part of the molasses from the beets are fed to cattle and sheep. So it is a case of producing products and marketing them the best way we have been able to market them at the present time. We do need to ship into the state some protein feeds to supplement the grain.

When crops are good, feed in this area is cheap in comparison to prices in other parts of the United States. From 1925 to 1934 corn sold at an average price of 60 cents a bushel on Nebraska farms. The price on farms in the Chicago area during the same period was 65 to 70 cents a [fol. 2310] bushel. In the Buffalo, New York, area it was 85 cents a bushel. Corn sold for $1.00 a bushel along the West Coast. During the same period the price of wheat averaged approximately 85 cents a bushel in Nebraska. It was $1.05 on the West Coast and $1.10 in the Buffalo area. I have given the data in tables 1 and 2 on the production of cereal products and hay in Nebraska over a period of years. I have given them by 5-year periods and yearly periods for 1941 and 1942. I have given data on livestock in the state on January 1st for a period of years in table 3 and market receipts of the principal classes of livestock, types of livestock, in table 4 on page 3.

Now, the reason why the prices of our grain differ is largely due to the cost of moving grain and other feeds to market. That is one reason there is so much of the feed grains fed, because we can move the livestock to market in the East at a lower price than we can move the grain. We concentrate the grain and hay by feeding them to livestock.

The cost of many important food products used by factory workers is lower in Nebraska than in most industrial centers in the northern half of the United States. In table 5 I present data to show the average 1941 prices of several products in six important industrial centers and 51 cities. Omaha prices, for most of these products, were materially lower in other business centers. We feel that because such [fol. 2311] products as milk and eggs are cheaper in Nebraska than in most other areas, certain areas east of Nebraska, it would be a good location for factories from the standpoint of the cost of living. In years past, one of our difficulties in the state has been with the weather. We have had too many dry seasons and we have occasionally missed crops as a result. That is particularly true in 1934, 1936 and some other years in the early thirties. Because of the period of drouth years——

Chairman Aitchison: Do you not mean the late thirties, Doctor?

The Witness: I beg your pardon?

Chairman Aitchison: Do you not mean the late thirties?

The Witness: It extended into the late thirties, but 1934 and 1936 were the two worst years. We had rather short crops right along through the thirties. You will note here that the 1936-1940 corn production was the lowest of any of the five year periods because that included the short crop in 1936 and some that came later. Wheat was not as low for that period as it was from 1931 to 1935. The short crop period has led to the development of irrigation to a greater extent that it was developed before the drouth years and I have given data upon the expansion of irrigation in table 6 on page 5. Now, in the census period from 1929 to 1939, there was an increase of 246 per cent in the acres irrigated from [fol. 2312] wells. There was a 4 per cent increase in the acreage irrigated from ditches and other similar sources, making a total increase of 15 per cent.

We had in 1939 when the census was taken a number of important irrigation projects in Nebraska in the process of development. Some of those have been much more fully developed since that time, and at the present time are much more fully developed than they were in 1939. The total area in those projects was 397,000 of which only a relatively small amount had been developed up to that time. Part of that has been developed since 1939 and part of it will be developed in the future. In addition to these individual wells

that had been put down for irrigating 81,034 acres, we have several pump irrigation projects that cover a considerable area. Those are listed in table 8 on page 6. Together they amount to 100,000 acres. We anticipate that within a relatively short time we will have more than a million acres under irrigation in the State of Nebraska.

Most of the irrigable land in the state is well adapted to alfalfa, corn, sugar beets, potatoes, peas, tomatoes and other vegetable crops. Water applied to broad areas of fertile land will stabilize agricultural production and provide a continuous supply of food for industrial workers and raw materials for factories engaged in processing farm products. We have a canning industry developing in the Scotts Bluff [fol. 2313] area, developing at the present time. We anticipate that a canning industry will develop in the Tri-State project in the vicinity of Hastings and Holdridge and also in the Loup River district, tributary to Columbus.

Chairman Aitchison: Is the Tri-State project included in the Central Nebraska Public Power and Irrigation District?

The Witness: I meant, the Tri-County project.

Chairman Aitchison: The Tri-County project.

The Witness: That is in the Platte Valley Public Power and Irrigation District. I mentioned it by the local name. In connection with these irrigation projects, we have had a great expansion in the production of electric power. In 1930 the installed capacity to produce electric current was 215,000 kilowatts. At present it is 434,534 kilowatts—an increase of 102 per cent in 12 years. The large plants are interconnected through an extensive grid of transmission lines. Producers of current are seeking customers at low rates. On July 27, 1940, the first Nebraska well that yielded paying quantities of oil was brought into production.

Chairman Aitchison: Where?

The Witness: It was near Fall City, Nebraska, Richardson County, in the southeastern corner of the state. Approximately 1,400,000 barrels of crude oil will be produced in 1942.

Six companies now have pipe lines delivering natural gas to Nebraska consumers from heavy producing fields in [fol. 2314] Texas, Oklahoma, Kansas and Wyoming. In 1939, last year for which data are at hand, 54,880 domestic consumers used 964 million cubic feet of natural gas. Commercial consumers used 48 million cubic feet and industrial plants 116 million. Natural gas is available to both domestic and industrial users in most parts of the state.

At the present time Nebraska young people who are not needed on farms are forced to go to remote cities in order to find employment. That has been true in years past. We have some war plants in Nebraska that have taken the surplus. Of course we are in hopes that those war plants will not be needed for very many years in the future; but the state needs industries and private employment to process the farm products and to make articles needed by its people. It possesses the advantages offered by low priced food, cheap raw materials, adequate power and a healthful climate.

By Mr. Kokjer:

Q. Have you anything further in the nature of explanation or comment to make, Dr. Filley?

A. I think not.

Mr. Kokjer: We offer in evidence Exhibit No. 116, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit 116? (No response.) Without objection, it is received.

(Exhibit 116, Witness Filley, received in evidence.)

[fol. 2315] By Chairman Aitchison:

Q. Will you refer please, Dr. Filley, to table 5 on page 4 of your exhibit.

A. Yes.

Q. Will you tell me why apples in Omaha are higher than in any other city?

A. We are not a great apple-producing state,

Q. You used to be, did you not?

A. Yes, but we had a very severe freeze on Armistice Day some two or three years ago and it destroyed a very material part of our commercial orchards, and other apple trees in the state.

Q. How about Mills County, Iowa?

A. I beg your pardon?

Q. What about Mills County, Iowa?

A. Well the southeastern part of Iowa——

Q. The southwestern part.

A. Yes. The southwestern part of Iowa lost most of its apples, too, in that same freeze. A very large part of the apples that are sold in Omaha are shipped in from the Pacific Northwest or from states further to the northeast

Q. That is true, is it not, with respect to some of these other places? I still do not see why Omaha should be the high point.

A. There is at least a shortage of apples there, Mr. Chairman, and we have to ship them in considerable distances. [fol. 2316]. They are shipped in by freight. There is no shipment of apples to Omaha by water.

Q. In 1941 there was not any shipment of apples from the point where you got your apples out on the Pacific Coast, was there?

A. I doubt if there was.

Q. Do you not get apples from Missouri?

A. We get some apples from Missouri, but there have been more Pacific Coast apples sold in Lincoln than there have from Missouri. I suppose that is true in Omaha.

Chairman Aitchison: All right.

Mr. Kokjer: Dr. Filley is tendered for cross-examination.

Chairman Aitchison: Mr. Hughes.

Cross-examination.

By Mr. Hughes:

Q. Dr. Filley, in examining your Exhibit No. 116, I notice you show the great expansion in the irrigation of Nebraska.

A. That is correct.

Q. You state that in 1941 there were 701,952 acres that were under irrigation and there are more irrigation projects which have been approved and are contemplated?

A. That is correct.

Q. Is that correct?

A. That is right. Table 7 shows those that are being [fol. 2317] developed, and the pump projects are shown in table 8.

Q. Would that reasonably be interpreted as indicating that Nebraska is probably more concerned in agriculture than in any other industry?

A. That is correct, but as a matter of course, we want to utilize our agricultural products in the best way possible. If we can manufacture those products otherwise than making them into beef and pork and milk, we wish to do so; and if we can keep our people there, will have a better market for milk than if the people move away to other regions.

Q. Then does it not follow that the freight rate that is of the greatest concern to Nebraska is the freight rate upon

agricultural products and livestock and things in that category?

A. We are interested in those rates. We are also interested in the rates on manufactured goods because, as I stated earlier, we wish to process these agricultural products wherever we can.

Q. Will you sacrifice your rates on agricultural products in the hope that some lower rates on manufactured articles will supersede your agriculture rates?

A. It is not my understanding that this is a hearing on commodity rates.

Q. It is a hearing on class rates.

A. Yes. That was my understanding.

[fol. 2318] Q. Yes. Under which a great many manufactured articles move.

A. Yes. And we are interested in an opportunity of developing manufacturing. For example, our canners tell me, canning factory managers, that they have difficulty in shipping the products of those canneries any considerable distance; that they are at a disadvantage——

Q. My question was this——

A. —as compared with men in other territories.

Chairman Aitchison: Just a minute. Let the witness finish his answer, please, Mr. Hughes.

Mr. Hughes: Pardon me, Mr. Chairman.

Chairman Aitchison: Read the witness' answer, please, Mr. Reporter.

(Record read.)

Chairman Aitchison: Proceed.

The Witness: I am going to add one word to that answer, so as to make it read "any considerable distance east." We have shipped some west.

By Mr. Hughes:

Q. Are you familiar with freight rates yourself?

A. No sir. I am not an authority on freight rates.

Q. That is what some canning interests said to you?

A. That is correct.

Q. Do you know what their competition may be?

A. They have competition from canneries located in Iowa,

[fol. 2319] Illinois, Indiana and Wisconsin.

Q. Within your own general rate territory, is that not true?

A. A part of them are in our own general rate territory, and a part of them are further east.

Q. My question which I do not think has been answered was this: Considering Nebraska's very decided concern for agriculture, would you be interested in a reduction in rates in the hope that in the future you may get factories, if that endangered your rate adjustment on agricultural products?

A. You have asked me a question that I am not in a position to answer, because to answer it correctly, I would need to know what the volume of manufactured goods as well as the volume of such agricultural products would be.

Chairman Aitchison: Mr. Hughes, is it your contention that he must take a choice between those two alternatives? Is it your position that he is forced to take such a choice?

Mr. Hughes: No. I am not trying to force him to take a choice. I am merely asking him a question. It is optional with him as to what his opinion is.

Chairman Aitchison: It would be equally pertinent to ask him whether, if he can have both, he would like to have both.

Mr. Hughes: That in turn brings up the question as to whether the railroads can afford both, and that is what we are trying to develop in this case. Therefore, I think from [fol. 2320] the standpoint of our own evidence, if it is relevant, and it has been accepted, that the question is relevant.

Chairman Aitchison: Do you know whether you are forced to take a choice?

The Witness: I do not see why it should be a question of taking a choice. We anticipate, with the irrigation and with the things that we know about farming that we did not know even before this drouth began, that we are going to produce a large volume of beef and pork and milk, and we will still have corn left over that could be manufactured into alcohol. We can can vegetables that we could not can to advantage before we had irrigation. It is a case not of giving up the products that we have been interested in, but it is a case of being able to add a large volume of other products to that, to make additional business for the transportation companies.

By Mr. Hughes:

Q. Upon what do you base your assumption that a reduction in rates upon manufactured articles would itself produce factories?

Mr. Kokjer: I object to that question. It assumes something that the witness did not testify about at all.

Mr. Hughes: I think you will find that on page 6 of his memorandum.

Mr. Kokjer: I do not think he mentioned a reduction in rates, did he? I think all he has asked for is equality of [fol. 2321] rates.

Mr. Hughes: That is true. He asks for equality of rates. I will amend my question.

By Mr. Hughes:

Q. Do you mean by "equality of rates", viewing it from the standpoint of Nebraska in the light of your testimony on direct—do you construe "equality of rates" as a reduction in rates, having in mind the canner to whom you referred a little while ago?

A. We would like to be able to ship vegetables, canned in Scotts Bluff County or Adams County or other places in Nebraska at the same ton rate per mile as they are shipped in states in other territories. If we must compete with canners in Maryland, Ohio or Indiana, we would like to compete with them on an equal rate basis.

Q. Is it your view that that would itself produce these plants that you referred to in Nebraska?

A. I stated previously that the canning plant managers have told me that at present they are at a disadvantage with canners in states further east in the matter of freight rates. As I said also before I am not a freight rate expert and I have merely taken their statements.

Mr. Hughes: Let me ask you this question:

By Mr. Hughes:

Q. Is it your view that a freight rate alone will determine the location of a factory anywhere?

A. It is not. If we could not produce good vegetables [fol. 2322] in the North Platte Valley to can, we would not have any factory there. You must have your raw material as well as being able to ship out the raw material when it is processed.

Q. Would you say that certain other items enter into the location of a factory, such, for example, as taxes, availability of labor and the accessibility to raw materials and many other things?

A. That is correct.

Q. Would you say——

Chairman Aitchison: Mr. Hughes, is this being developed for the information or enlightenment of the Commission, or for what purpose?

Mr. Hughes: It is for the purpose of undertaking to develop whether or not this witness' premise, as I understand his testimony, is sound, that the freight rate itself would be controlling in the location of a factory.

Chairman Aitchison: I did not understand him to testify to that.

Com. Alldredge: I did not get that impression from his testimony, and I do not so understand it.

Mr. Hughes: Well, if the Chairman please——

Chairman Aitchison: It does not matter whether it is controlling or not. He is entitled to a reasonable rate. It does not make any difference whether the rates are cut or increased, the class rates, as a result of this. After [fol. 2323] it is all done, he is entitled to reasonable class rates, and nothing else. He is not forced to take a choice. He is entitled to a reasonable rate, what he should have.

Mr. Hughes: We concede that, but we are trying to determine just——

Chairman Aitchison: I want these elementary economics stopped. We have tried a few of these cases in our time. We know something about the matters of the relative importance of taxation, the availability of labor and the accessibility to raw materials in the economic structure.

Mr. Hughes: Very well. That concludes my examination

Mr. McCollester: May we understand, if your Honor please, then, that the testimony offered by the Southern states to the effect that their industrial development has been hampered——

Chairman Aitchison: Not at all.

Mr. McCollester: —by the freight rates, is to be disregarded?

Chairman Aitchison: Not at all. Mr. Hughes here has taken a witness who has testified to certain things and has undertaken to cross-examine him with respect to the basis for a conclusion which the witness has not stated.

Mr. Hughes: May I say this, Mr. Chairman:——

Chairman Aitchison: It is not necessary to go into ele-

mentary economics. It is just child's play to take up the [fol. 2324] time here. We know them.

Mr. Hughes: Mr. Chairman, as I understand it, then, the objection to my examination is based upon the fact that I——

Chairman Aitchison: It is based upon prolixity with respect to matters which are elementary. It is virtually an affront to the intelligence of the Commission to assume we do not know the importance of taxation and these other matters in this economic scheme of ours.

Mr. Hughes: We have heard so much in this record connected with that, as Mr. McCollester said, that I do not wish to be foreclosed from pursuing the object if it is in the case.

Chairman Aitchison: When you have a witness who deals with those things, you may examine him with respect to them. This witness has not done so, if I correctly understood his testimony. The witness may tell me whether I am correct or not.

The Witness: I think you are correct.

Chairman Aitchison: Is there anything further from this witness?

Mr. McCollester: I would like to be sure that I understand the purport of his last paragraph in which he states, "The state"—meaning Nebraska—"needs industries to provide employment, to process farm products [fol. 2325] and to make articles needed by its people." If I understand that that is not to be considered as any evidence bearing upon the rate situation in this proceeding, then it is certainly irrelevant and I move that it be stricken.

Chairman Aitchison: It is unquestionably a fact and it is true. The fact may or may not have a legal bearing. That question can be argued before the entire Commission when this case comes on for submission. We are developing the facts now, not arguing the case, as Mr. Hughes was attempting to do a moment ago. Is there any other cross-examination of this witness? (No response.) Have you any other questions, Mr. Kokjer?

Mr. Kokjer: No. That is all.

Chairman Aitchison: You are excused. You may stand aside.

(Witness excused.)

Chairman Aitchison: Call your next witness.
Mr. Kokjer: Dr. Christianson.
Chairman Aitchison: Be sworn.

LEO N. CHRISTIANSON was sworn and testified as follows:

Direct examination.

By Mr. Kokjer:

Q. Will you please give your full name, residence and occupation to the reporter.

A. My name is Leo N. Christianson.

[fol. 2326] Mr. Hughes: I did not get the witness' name.

The Witness: My name is Leo N. Christianson. I am Research Executive for the Chemurgy Project at the University of Nebraska, Lincoln.

By Mr. Kokjer:

Q. What degrees do you hold?

A. I hold the degree of Bachelor of Science in chemical engineering and Doctor of Philosophy in chemistry.

Q. How long have you been in the study and use of the learning of chemistry?

A. I have been working in this present field of industrial utilization of farm crops for a little more than 15 years.

Q. Have you been specializing in the utilization of farm crops?

A. That has been my principal work during that period, yes.

Q. Will you please give a statement, Doctor, concerning the industrial utilization of farm crops in Nebraska?

A. I think I can state that best by referring to the testimony which Dr. Filley gave to the effect that in Nebraska we produced last year in the neighborhood of four hundred million bushels of grain, total.

Com. Alldredge: What was the figure you gave?

The Witness: Approximately four hundred million bushels of grain, all grains together. He also mentioned the fact that a great deal of this grain, quite a proportion of it, is in excess of the present markets for grain as such, [fol. 2327] or in other present forms; that we have an excess of production over market demand. An analysis of that situation reflects this important fact, that this

surplus or excess is essentially a surplus of starch, not of protein, both of which are ingredients or components of these grains. As Dr. Filley pointed out, in Nebraska we have to import quite a bit of protein supplement in order to carry on a balanced feeding program. From a chemist's viewpoint, the surplus is a surplus of starch, not a surplus of protein.

It is one of the jobs of the Chemurgy project to find something we can do with the starch instead of, as at present, letting a lot of it be carried away by birds, mice and rats from its storage. We need industries. We need the income from this material. I think it is not only of interest in Nebraska, but it is of national interest as well, especially in this war program, to make use of all the materials of that type which we have. We have looked into the possibilities of making some proper, economical and profitable use of this surplus or excess of starch.

One of the things that has been especially interesting has been its use in the fermentation industries, industries which produce industrial chemicals, industrial solvents, which is a very important branch of the present American chemical industry. These fermentation chemicals include ethyl alcohol, acetone, butyl alcohol, and so forth. Ethyl [fol. 2328] alcohol is the one used and needed in largest volume. We have given particular attention in the past year or year and a half to the use of these materials, these surplus grains, or rather the starch of these surplus grains for the manufacture of industrial alcohol.

One of the very large and very important developments in the present war program has been a large increase in the demand for industrial alcohol. Whereas we normally made and used in peace time about one hundred million gallons of this important organic chemical, we now currently need about six hundred million gallons and the demand is increasing so that by the time the war is over, it is thought by some that we may need as much as one thousand million gallons a year which would be ten-fold the normal requirements.

Com. Alldredge: Is that for all purposes?

The Witness: Yes, primarily, although civilian needs are also included in that figure.

Com. Alldredge: Are they increasing now?

The Witness: Civilian needs would increase if we al-

lowed them to. You realize this fact, that industrial ethyl alcohol is one of the materials out of which synthetic rubber is made. The demand for industrial alcohol is for such things as smokeless powder, medicinals, plastics and synthetic rubber. I have named only a few. They are the large ones.

Com. Alldredge: Is it used in the manufacture of paints [fol. 2329] too?

The Witness: It is used in the production of lacquers and solvents. Industrial alcohol is one of the very important organic chemicals.

By Mr. Kokjer:

Q. Is it not being used in some places direct as a substitute for gasoline to be used in propelling motor vehicles?

A. It is in foreign countries, a great deal.

Q. And could be here?

A. And has been at various times and probably is now in this country. I do not know the volume of use at the present time, but it has come in and undoubtedly is in this country at the present time. It is used very largely in the European countries, South America, the West Indies, the Philippine Islands and so forth. In that connection it is interesting to know that one of the Naval officials not very long ago—I believe a Naval board—made the statement that in the event of a shortage of aviation fuel in the Philippines, there was enough alcohol capacity in the Philippine Islands to solve the problem.

Q. Did you state from what products this alcohol is made?

A. No. We can make the industrial alcohol or these other fermentation chemicals—I would like to make that very clear, because it is very important—we can make all of these fermentation chemicals in the same factory from [fol. 2330] the same raw materials. These raw materials may be in grain, sugar beets, potatoes or what have you, and the same factory that processes one can process any and all of them interchangeably and in mixture, so there is a great deal of flexibility in this matter of raw material use. In mentioning the uses to which this alcohol is being put, I mentioned synthetic rubber. In the Baruch Committee's report on the rubber problem which is familiar to many of you here, and the subsequent developments I think

probably are also, it was stated that something like 40 to 50 per cent of the synthetic rubber which will be produced in the United States is now scheduled to be made from industrial ethyl alcohol and something like 90 per cent of the total production of industrial alcohol will be from domestically grown grains.

Com. Alldredge: Is my understanding correct that between 40 and 50 per cent of the rubber that is to be made, substitute or synthetic rubber, is coming from alcohol?

The Witness: That is right, from ethyl alcohol produced from our own grains. Those are the figures of the Baruch report.

Com. Alldredge: Has that been changed recently?

The Witness: It is undergoing, I think, rather constant revision. That has been my understanding. There has been no official statement in that connection I think in the last month. The Baruch Committee report indicated prac- [fol. 2331] tically 40 per cent, and unofficially that has been raised somewhat since then which is the reason I said "40 to 50". Of course, the manufacture of synthetic rubber from ethyl alcohol from farm crops is the only commercial production of synthetic rubber any place in the world, with the possible exception of Germany, of which we know little at the present time. Russia's entire synethic rubber production which was, in 1938, 73 per cent of her total requirements, was all from agricultural alcohol.

We expect these industrial plants which would result from the present war program to continue in to the peace time economy. We are not looking at them as purely temporary things. Now, to what extent their development will take place, we do not know exactly at the present time. The Baruch Committee report recommended that one hundred million gallons per year of new production facilities be provided immediately. It also recommended that these new factories be located near the source of supply of grain. Since this report Administrator Jeffers has had several things to say about that, indicating he was following exactly the Baruch Committee's recommendations that something like ten new plants be built, and that they should be near the source of surplus grain which today would be practically along the Missouri River. The Missouri River almost exactly flows through the center of the surplus grain; note

[fol. 2332] the "surplus"; not ~~total~~ grain. If that is true, we could expect also that the synthetic rubber factories might be located nearby. Mr. Jeffers has said that the synthetic rubber plants would be near the industrial alcohol plants.

All of that is very interesting and is a very important industrial development, but we are looking beyond that quite a bit, because the same things in general that are needed to make synthetic rubber are also used to make plastics. If ethyl alcohol is used to make rubber, so can it also be used to make ethyl cellulose, cellulose acetate and other important plastics. In looking into the future, into the peace time economies, when we do not know for sure how much synthetic rubber we will make in addition to natural imports, we are not worried at all because we know the tremendous growth the plastics industry will have not only during the war, but immediately after. It has been said by many people, so it is rather common knowledge I think, that the next few years in this country will be an age of plastics and light metals taking quite a bit of the present market for steel.

Q. What are some of the things, Doctor, plastics can be used for?

A. Of course there has been a great deal of popular discussion of plastics for automobile bodies, and as you know, a number of experimental automobile bodies have been made from plastics. I think it is not at all surprising [fol. 2333] to contemplate that we will have automobile bodies made of plastics, and that plastics will go into other large sized objects such as furniture. They may find an important place in the construction of buildings. Those are the things that are being talked about now. Of course, there is no surplus of plastics to use for things like that at the present time. All of the plastics we can possibly produce are going into things like aircraft parts, the nose of the bomber, the turrets, and so forth, into the various parts of aircraft. The uniform buttons, overcoat buttons for the army, I understand, are to be made from ethyl cellulose from now on. The Quartermaster's department announced also that soldiers' mess-kits would be made from a plastic, ethyl cellulose, which is ethyl alcohol plus cellulose. No one can say how far this plastics business is going to go. You can use your imagination and see what the possibilities are. Certainly many of them will materialize.

Q. What about the disposition of the by-products?

A. Well now, that is a very interesting thing. To us it is as interesting as any other feature of it, because in the manufacture of ethyl alcohol or these other chemicals, we will use only the starch of the grain. All of the protein, all of the minerals, all of the vitamins and all of the fat will be left. We do not use that. They are there to go back into our feeding program, to give us a better balanced feed- [fol. 2334] ing program, and a more economical and more efficient production of livestock and dairy products. We are using only the starch which is in surplus now and the starch is simply so much sunshine, air and water. It does not represent anything of soil fertility and does not represent a matter of need in the feeding program at the present time.

Now, we have real hopes for this. We think it is going to be an important industry, not only in the war time, but especially so when the war is over. We are looking forward to an expanding business, one which will continually grow. We do not think of this as a business, as an industry that will take anything away from present business. We do not think of this as an industry which will move from some other area of the country to ours, but rather one to be developed to supplement present industry. It is a new thing in an expanding field. It is quite true that if we — able to go ahead as we expect to do, we will undoubtedly take a larger part of this new business than some established industries hope we might take, but certainly we are not taking anything that presently exists. It is new. We do not know how large it will be. We are thinking in terms of about 500,000 to 1,000,000 tons of new production per year. It may greatly exceed that. We think it is going to be pretty well along the Missouri River east and west, perhaps one hundred or two hundred miles, or so, but that will be approximately [fol. 2335] the center of this new chemical industry.

From the standpoint of power, from the standpoint of supply of water for these industrial uses, from the standpoint of high quality of labor and fine living conditions and from the standpoint of raw materials, there is no place else and no one else in the country that has a better situation than we have. Unless there is some kind of an artificial barrier that is a source of trouble to us, we will

certainly develop this new industry. Freight rates that are not properly balanced could be such a barrier, undoubtedly, and so could other things of an artificial character. If we have to depend only upon natural things, we are going to go, and we are going to go in a big way.

Q. What would your desire be as to freight rates, Doctor? Are you seeking some advantage?

A. Certainly we do not need any preferential treatment and would not want to ask for any. We would expect simply to have the same kind of a freight rate structure as to class that would apply to any other producing area. Unless there is some artificial barrier, we are very well situated and will manage very nicely.

Mr. Kokjer: That is all.

Com. Alldredge: Do those products require, not so much in war time as in peace time, a wide area of distribution, more than a regional distribution?

[fol. 2336] The Witness: Ordinarily, in the past, that has been true, yes. Products of this kind have been distributed over a wide area. Looking into the future, as well as we can guess the situation then, we would expect that plastics which we might produce, for example, would be largely shipped east, say, to the center of automobile manufacture, if automobile bodies are made of plastics which seems fairly likely. That is, the markets for these finished things would likely be several hundred miles away from our producing plants.

Chairman Aitchison: Cross-examine.

Mr. J. R. Bell: I have one question.

Chairman Aitchison: Mr. J. R. Bell.

Cross-examination.

By Mr. J. R. Bell:

Q. I understood you to say that this would be a new industry, a supplemental industry.

A. It would be an industry in addition or added to industries of this same character. Perhaps I could have made that more clear if I had said "companies." In other words, we have the production of industrial alcohol in the United States and we have the production of plastics. We hope soon to have the production of synthetic rubber. Ours would be a part of the general production of these things in these classes.

Q. I had reference to your statement that this would be a new industry. You also said that it would supplant a large extent the use of iron and steel along certain lines, [fol. 2337] did you not?

A. Undoubtedly that will be the result, but that is quite a few years into the future. That is not next year or even the year following it.

Mr. J. R. Bell: That is all.

Chairman Aitchison: Is there anything further?

Com. Splawn: I would like to ask one question.

By Com. Splawn:

Q. On what rates does alcohol now move in western Trunk Line Territory?

A. I am sorry, But I do not know. I do not know the freight rates well enough to give you an intelligent answer. In some cases I have known rates, but I am sorry; I cannot give you a definite answer to that question.

Q. Do you know whether the location of these plants along the Missouri River was in order to take advantage of water transportation, and not necessarily to locate at the immediate source of the raw materials?

A. The Baruch Committee report specifically mentioned the desirability of having these plants along navigable rivers. I do not know the basis for that recommendation, but that recommendation is so stated in the report.

Q. If you have water transportation for your alcohol and the alcohol can move in barges on navigable streams, what sort of rate would you have to have on the plastics made from alcohol to reach the market for the plastics?

[fol. 2338] A. I think we could not very well state any definite figure. It would rather be determined by the rate which some other producer in some other area might have to pay. If we did not have to pay a much higher rate than someone else, we would be pretty well off. If we are penalized by having a rate higher than a competitor has, then it would certainly work against us. There is certainly no need for us having a rate lower than a competing area might have.

I would like to answer a little further that question about steel which I was not very clear on, I am afraid. The same principle holds here that holds in these other matters,

namely, that there will be, we hope and feel rather confident, an increase in the demand for all sorts of materials of construction for houses and automobiles and lots of things. If we are optimists we can see that. It is not so much that plastics and light metals will replace steel as that they will take a great deal of the new business which otherwise would go to steel. Again it is a matter of which one is going to get the new business rather than which one is going to get business which now exists.

By Mr. J. R. Bell:

Q. If they are competitive, how can you say that?

A. I beg your pardon?

Q. I say, if they are competitive, how can you say that plastics will only get some of the new business?

[fols. 2339-2340] A. Well, the present steel production is, I believe, about 100 million tons a year. I can assure you that we are not going to reach 100 million tons of plastics a year for quite a little while.

Mr. J. R. Bell: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) You may stand aside.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until tomorrow morning at 9:30 A. M.

(At 5:15 o'clock P. M. November 16, 1942, adjournment taken to 9:30 o'clock A. M. November 17, 1942.)

[fol. 2341]

Hotel Deshler,
Columbus, Ohio,
November 17, 1942.

Met, pursuant to adjournment, at 9:30 o'clock a. m.

Before Division 2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner.

Hon. J. Haden Alldredge, Commissioner, and a Cooperating Committee of the National Association of Railway &

Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances:

As heretofore noted and the following additional:

Perry R. Moore, 1100 First National-Soo Line Building, Minneapolis, Minnesota, appearing for Minnesota Resources Commission.

C. H. Ware, Norfolk, Virginia, appearing for Norfolk Southern Railroad.

Arthur J. Dixon, McPherson Square, Washington, D. C. appearing for Southern Railway System.

[fol. 2342] Proceedings

Chairman Aitchison: Please come to order. Mr. Keas is now available for cross-examination.

Mr. Hughes: If the Commission please, before Mr. Keas takes the stand, may I announce that the Western Carriers do not desire any further cross-examination of witness Duff.

Chairman Aitchison: Does anyone desire to further cross-examine Mr. Duff? (No response.) Apparently not. He is excused, then.

R. K. Keas recalled.

Mr. J. R. Bell: I have one or two questions of Mr. Keas, your Honor.

Cross-examination.

By Mr. Bell:

Q. Mr. Keas, will you refer, please, to your Exhibit 115.

A. Yes, sir.

Q. That exhibit is divided into sections by the letters A, B, C, D, and so forth.

A. Yes.

Q. Will you look at the first F, please.

A. Yes, sir.

Q. The pages are not numbered in order, apparently.
A. I have it.

Q. Now, from your first F to the end of the exhibit, you [fol. 2343] are talking about Transcontinental and Mountain-Pacific rates; is that correct?

A. They are used in the exhibit——

Q. Just answer my question, please, Mr. Keas. Is that correct, or not?

A. That question cannot be answered with a yes-or-no answer.

Q. Those rates are Mountain-Pacific and Transcontinental rates, beginning with F, the first F, through the other F's to the end of the exhibit, are they not?

A. They are not Transcontinental rates, no, sir. They are rates from the Pacific Coast steel producing points to practically all of western territory, up as far as Montana, stretching over to the Texas border at El Paso. They are not strictly Transcontinental rates, however, no, sir.

Q. But they are rates applying in territory that is not involved in I. C. C. Docket No. 28300; that is correct, is it not?

A. Yes, sir.

Mr. Bell: For that reason, Mr. Chairman, not having had an opportunity to examine the exhibit in detail, and not knowing just what the contents of the exhibit were at the time it was accepted in evidence yesterday, I now move to strike that portion of the exhibit beginning with the first F, shown in a large letter at the top of the page, to the end of the exhibit.

[fol. 2344] The Witness: I would like to explain——

Mr. Bell: Just a moment, please. My motion is on the ground that that part of the exhibit covers territory that is not involved in the issues in this case in any respect, so far as rates are concerned. The classification ratings are, but this does not involve classification ratings.

Chairman Aitchison: The motion is denied. It is admissible, for comparison.

By Mr. Bell:

Q. Mr. Keas, what was the purpose——

Chairman Aitchison: Well, now, Mr. Bell, it does not matter what the purpose was.

Mr. Bell: Pardon me, your Honor?

Chairman Aitchison: I say, it does not matter what the purpose was. These things are here as facts; they are here for comparison.

Mr. Bell: Well, I am trying to find out, in comparison with what, Mr. Chairman.

Chairman Aitchison: All right.

By Mr. Bell:

Q. What was the purpose of your discussion of rates, for example, on the first page of the exhibit, from Pittsburg, California, and Torrance, California, to the various California and Nevada points indicated, and on the second page, and subsequent pages, Arizona points? I believe that you have even got New Mexico in here somewhere else also, have you not?

[fol. 2345] A. Yes, sir.

Q. What was the purpose of that comparison?

A. The purpose of these comparisons was to show that throughout the entire United States, from the eastern coast to the Pacific coast, there is no section of the country where the elevation of the iron and steel rates prescribed by the Commission in the Consolidated Southwestern Cases was as high as it was in the territory covered by that proceeding; that on all sides of it the rates were very much lower, both in relation to the first class rates, and otherwise.

Q. Are these class rates contained in this portion of the exhibit from F on?

A. No.

Q. They are commodity rates, are they not?

A. Yes, sir, that is true, but they are the rates that move the iron and steel in carload quantities.

Q. You are objecting to the rates prescribed by the Commission in the Consolidated Southwestern Cases, are you?

A. Yes, sir.

Q. That is the purpose of your appearance here, is it?

A. Yes, sir.

Q. Is that the sole purpose of your presentation here?

A. In the Consolidated Southwestern proceedings, and in the 17000—Part 2 proceedings, which involved Western Trunk Line Territory, and which were on a basis similar to [fol. 2346] that in the southwest—yes, sir.

Q. Are you talking now about class or commodity rates in the Consolidated Southwestern Cases, to which you have referred?

A. I am talking about the 32.5 per cent of first class rates which were prescribed in that proceeding, and which the carriers have termed as class rates.

Q. Irrespective of what the carriers have termed them, they are column commodity rates, are they not?

A. I don't know.

Mr. Bell: I renew my objection, and my motion, if the Commission please.

Chairman Aitchison: It will be noted, and the exhibit will stand, subject to the objection.

Mr. Bell: That is all I have.

Chairman Aitchison: Is there any further cross-examination of Mr. Keas? (No response.) Apparently not. You are excused.

The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: Mr. Haynes.

JAMES P. HAYNES was sworn and testified as follows:

Direct examination:

The Witness: Mr. Chairman, and members of the Commission: I have prepared a 3-page statement of testimony, [fol. 2347] which I have distributed to the parties; and if it please the Commission, I will read it at this time.

My name is James P. Haynes. I am Manager, Traffic Department, Louisville Board of Trade, Louisville, Kentucky. During the period 1906 to 1942, I have been in traffic work with railroads, including their bureaus, and representing commercial organizations in charge of traffic departments.

Prior to my present position, and for 20 years, I was Traffic Director and Executive Vice-President of the Chicago Association of Commerce in charge of traffic.

My traffic experience has been broad and enabled me to participate in many rate adjustments being reviewed in this proceeding.

The receivers and shippers of Louisville, many of which are national in scope, and ship to and from all territories involved in these proceedings, have no complaint to the basic class rate adjustments now in effect. While many changes are constantly being made in individual cases of rates and ratings to meet changing conditions, it is our position the present territorial freight bureaus and the direct interest of the railroads serving such plants are adequate to keep the class rate structure liquid enough to meet all requirements. We find the actual receivers and shippers are so busily engaged in war work and meeting the many requirements of the Office of Defense Transportation in compliance with the [fol. 2348] twenty-four formal orders, which takes precedence over all peace time rules and regulations, that they have not the time or opportunity to give mature study to the issues here involved.

As most of the war time measures are for the duration and a period of six months thereafter, it is our opinion the tonnage dislocations will be so great, whatever is done now in the way of rate changes may prove, when things are again normal, to be just the opposite of what is needed.

As Louisville is one of the important Ohio River Crossings, the basic rate structure between the North and South, during its entire history prior to 1928 was on the combination of local rates. As a result of the Southern Class Rate Investigation Docket No. 13494—100 I. C. C. 513, "et seq." through class rates lower than the combination of local rates to and from Louisville, and relatively lower than those found reasonable as a maximum for application within southern territory, were established from Official to Southern territory. This was a revolutionary change for Louisville as it abolished the basing point system of rate construction. Several firms who heretofore shipped to the Southeast from Louisville established branch plants within these states and readjusted their entire form of distribution.

Concurrently overhead rates from the Southeast to Official territory were materially reduced on a through rate basis and applicable under the Southern Classification, il- [fol. 2349] lustrated by the Chicago to Atlanta first class rate being reduced from $2.39½ to $1.91. This placed Chicago and related points on practically the same all-rail rate level as New York to Atlanta.

The Louisville commercial interests realized of course mileage is the fundamental basis for class rate construc-

tion and accepted this change as a part of the evolution of the rate structure.

The fact remains, however, that the elimination of the basing point principle, which had been in effect at the Ohio River Crossing for many years, materially and adversely affested the business outlook of the Louisville shippers. Such bases of rates between the Central Freight Association-Illinois Freight Association Territories, and the Southeastern States, on mileage scales reflecting a lower level of rates than is applicable within the Southern territory, placed the central middle west on a rate adjustment materially reduced and relatively more favorable than available to Louisville and other Ohio River Crossings. As these revisions were revolutionary, it has changed the status of this market as a wholesale and distributing center.

Inasmuch as the Louisville commercial interests have made the necessary adjustments to an overhead or through rate basis and no complaints are currently made against such basis, we respectfully request no change be made [fol. 2350] other than arranged through the established agencies, such as Southern Freight Association and similar agencies in other territories.

What I have said with respect to the Southern adjustment also applies in connection with class rates established pursuant to the Eastern Class Rate Investigation 164 I. C. C. 314, the Consolidated Southwestern Cases 205 I. C. C. 601 and the Western Trunk Line Class Rates 204 I. C. C. 595. As mileage was the underlying basis for revision within Official and Western Classification Territories, the Louisville shippers have no complaint to these adjustments and believe there is no need for wholesale revisions at this time.

That concludes my statement on direct, Mr. Chairman.

Chairman Aitchison: Cross-examine.

Cross-examination:

By Mr. Norman:

Q. Mr. Haynes, as I understand your position here, it is that there should be no change in the present classification adjustments in the United States, except such as may be

made through established railroad bureaus and agencies; is that correct?

A. Yes, sir.

Q. Is it not true that formerly Louisville paid an arbitrary over the Official Classification rates, going north of the Ohio River?

A. Yes.

Q. A bridge toll, in other words?

[fol. 2351] A. That is correct.

Q. And it was not satisfied with that, was it?

A. How?

Q. I say, it was not satisfied until it got placed upon the Official Classification basis, was it?

A. We have rates——

Chairman Aitchison: Oh, now, Mr. Haynes, you can answer that question yes or no.

The Witness: Pardon me, your Honor?

Chairman Aitchison: I say, you can answer yes or no to that question, and then make your explanation.

A. That is correct.

Chairman Aitchison: All right. Now, you may explain, if you desire to do so.

By Mr. Norman:

Q. Let me ask you this question, Mr. Haynes: In what way would Louisville be adversely affected if a uniform level of rates and a uniform classification adjustment were applied throughout the territory east of the Mississippi River?

A. I do not think that Louisville would be adversely affected——

Q. Then why do you object to it?

A. —by uniformity. I simply say that all of the uniformity that is necessary can be worked out in the regular course, through established agencies.

[fol. 2352] Q. Well, then, if you would not be adversely affected, why do you object to its being worked out by the Interstate Commerce Commission, the tribunal appointed by law to do that very thing?

A. Because, when we consider a whole adjustment, such as is proposed here, being made during these particular times, we think it is very unwise, in the light of conditions changing as rapidly as they are.

Q. Then your sole objection is on the ground that it is being done during a war emergency period; is that right?

A. Primarily so, yes, sir.

Mr. Norman: That is all.

Chairman Aitchison: Is there any further cross-examination? (No response.) You may stand aside, Mr. Haynes.

(Witness excused.)

Chairman Aitchison: Mr. Real.

C. F. Real was sworn and testified as follows:

The Witness: If the Commission please, before I start in, I might say that I have prepared my testimony in typewritten form, and copies of it have been distributed.

Mr. Dana T. Smith: Mr. Chairman, respondents have no objection to this statement of Mr. Real being copied into the record by the Reporter without being read.

Chairman Aitchison: Is there any desire on the part [fol. 2353] of anybody to have the statement read? Are you willing to have it copied in, Mr. Real?

The Witness: Yes, sir, that is perfectly agreeable to me, Mr. Chairman. However, I have some corrections to make in the exhibits, and also an addition.

Chairman Aitchison: No, we are not going to make any more corrections, or permit any more corrections to be made, on this record.

The Witness: There are only two or three of them, Mr. Chairman.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record.

The Witness: May I have my two exhibits numbered at this time, as 117 and 118.

(Exhibits Nos. 117 and 118, Witness Real, marked for identification.)

(The testimony of Witness Real is as follows:)

My name is C. F. Real.

I am Traffic Commissioner for the Topeka Chamber of Commerce and Topeka Traffic Association, Topeka, Kan-

sas. I have been in my present position since July 1, 1928. Prior to that date I was rate clerk and general clerk for the same two organizations for a number of years; prior to that I was Chief Clerk to the Division Freight Agent, Rock [fol. 2354] Island Lines, Topeka, for a period of seven months; prior thereto I was Assistant Cashier, Citizens State Bank, Manhattan, Kansas, for three months; prior to that I was with the Rock Island Lines for a number of years working on line as Cashier, Claim Clerk, Rate Clerk, Chief Clerk and Agent; prior to my Rock Island service I was with the Santa Fe Railway for a number of years beginning as office boy in the general passenger office, working up to special rate clerk, then on line as day ticket clerk, claim clerk, rate clerk, chief clerk and agent.

Practically all my experience has been along transportation lines.

The Topeka Chamber of Commerce is a corporation organized under the laws of the State of Kansas. The Topeka Traffic Association is a mutual organization of the leading merchants, manufacturers, jobbers, fabricators and distributors of Topeka. Both organizations exist for the mutual benefit of their members and not for profit.

I have prepared my testimony in three parts: Part 1 pertains in the main to the relationship Topeka V, the Missouri River Crossings; Part 2 to Docket No. 28300 generally and Part 3 to Docket No. 28310 in general.

Dealing first with Part I:

The position of the people I represent in these proceedings is that Northeastern Kansas, as I shall hereinafter [fol. 2355] definitely define it, should be included in the same zone for rate purposes; for rating purposes and for classification of commodities as the Commission may place Northern Missouri or Southern Iowa; that is to say, Northeastern Kansas should have the same identical rates mile for mile; the same identical ratings and be governed by the same identical classification and classifications exceptions as may concurrently apply to, from or within Northern Missouri and Southern Iowa on interstate traffic.

Topeka took this same position at the St. Paul, Minnesota, hearing in Western Trunk Lines Class Rates, 164 I. C. C. 1, and also at the Kansas City, Missouri, hearing in the reopened proceeding, 204 I. C. C. 595.

It will be my purpose in these proceedings to definitely show the Commission that Northeastern Kansas, Northern

Missouri and Southern Iowa constitute one homogeneous section wherein practically all conditions are similar, and, moreover, that traffic and transportation conditions have changed materially since the decisions of the Commission in the Class Rate proceedings just immediately above herein referred to.

I have prepared two exhibits which I would like to discuss at this time; the thick exhibit has been marked Exhibit No. 117, and the thin exhibit Exhibit No. 118.

These exhibits were prepared by me or under my direct [fol. 2356] supervision and are true and correct to the best of my knowledge and belief.

I have endeavored to make the two exhibits as self-explanatory as possible but some brief comment is necessary.

Exhibit No. 117 is in twelve sections: Section 1 consists of seven pages; page 1 is a brief outline of the present western and southern boundary of W.T.L. Zone 1, and of Topeka's proposed extension of that boundary; page 2 is a map showing the present western boundary of Zone I and Topeka's proposed extension thereof. Attention is called to the fact that the proposed extension would take the boundary about as far west of the Missouri River as the present southern boundary is south of that river. It would not extend the present boundary as far west as it is proposed by Witness Jensen to extend southward a line for changing the zone in Southern Territory, this is shown graphically on Sheet 11, Section IV-B, Exhibit No. 88, Witness Hart.

Page 3 shows that today Topeka and other points in Northeastern Kansas are in "East of the Missouri River Territory" for rating purposes. Page 4 is a map showing the western boundary of the present "East of the Missouri River Territory." Page 5 is a map which shows plainly that Topeka is east of points north of Topeka that are today included within Zone I.

Page 6 is a map of Western Trunk Line Territory. I [fol. 2357] have outlined in red the present boundaries of Zone I and in green the proposed extension westward. In blue I have rung the Missouri River Crossings and also Lincoln, Nebraska, and Topeka, Kansas.

I should here state that Topeka is directly intermediate between Kansas City and Omaha on two lines that today handle business to those two points on the Zone I rates:

Topeka is intermediate on the Rock Island on shipments received by that line at the St. Louis gateway, destined Omaha; Topeka is intermediate via the Union Pacific Railroad on traffic accepted by that line at Kansas City destined Omaha, or conversely, on business accepted by that line at Omaha for Kansas City. That same situation would also apply to the Rock Island Lines. In view of this situation it is my opinion that the boundary as proposed by Topeka is for all transportation purposes the logical boundary for Zone I.

In this connection the attention of the Commission is respectfully called to Western Trunk Lines Fourth Section Commodity Rates, 241 I. C. C. 366 and also to Commodities Missouri River Points, Union Pacific Railroad Company, 251 I. C. C. 22.

I want to elaborate on page 7, a railroad map of Kansas. At the time the Commission had under consideration the question of revising the rates to, from, and within Kansas, in the Western Trunk Line Class Rate investigation, both [fol. 2358] the original and reopened proceedings thereof, the Commission had before it the proceeding known as Docket 13535, The Consolidated Southwestern Cases, 123 I. C. C. 203. The decision in that proceeding was issued on April 5, 1927. In said decision the Commission found undue prejudice to Oklahoma and undue preference for all of Kansas in the then existing rate structure and the Commission ordered said prejudice and preference removed. The Commission prescribed a method for the removing of the prejudice and preference and it also, for future guidance, prescribed a finding, Finding No. 27, which, succinctly stating it, provided that the railroads might deviate from the findings of the Commission with respect to rates to, from and within the preferred territory, provided said deviation was extended to the Southwest.

Upon petition of the Topeka interests the Commission reopened the proceeding as to the question of prejudice and preference; later upon petition filed by various interests, including one filed by the Corporation Commission of Kansas, the proceeding was reopened as to all of Kansas.

In the Twenty-Fourth Supplemental Report of the Commission, on further hearing, 218 I. C. C. 11, the Commission rescinded its prior finding of prejudice and preference as to Northern Kansas.

I have shown on the map, page 7, Exhibit No. 117, in [fol. 2359] red the dividing line fixed by the Commission. Briefly stated, all points north of that line were relieved of the previous findings of prejudice and preference while all points in Kansas on and south of the line were held to the original findings.

Following the decision of the Commission, in the Supplemental Report, Topeka endeavored to obtain needed rate readjustments but ran into difficulties. Several of the lines serving northern Kansas operate through the non-relieved territory in reaching destinations in the relieved territory and they hesitated to join in any readjustments. After some delay the railroads filed Fourth Section Application No. 17202 with the Commission seeking authority to publish lower ratings to the relieved portion of Kansas without maintaining the lower ratings within the non-relieved territory.

The Commision in Kansas Rates To and From, 234 I. C. C. 500, granted the relief prayed for. In order not to create humps at the border it was provided that the ratings should be graded and Kansas was again divided, the territory lying on and north of the green line, designated as "A" to be accorded ratings applicable in Western Trunk Line Territory; the ratings in the territory "B" which lies south of the green line and north of the red line to be somewhat higher than in "A" territory while the ratings in "C" territory, on and south of the red line [fol. 2360] would be 100 per cent territory, or equal with those applicable to or from Oklahoma.

Following the decision of the Commission in the next above cited cases Northeastern Kansas was placed in "East of the Missouri River Territory" for rating purposes.

Sections II and III need no further explanation.

Section IV, Page 1, shows the counties, principal cities and rivers of Kansas. In operating between Topeka and Kansas City the railroads operate in the valley of the Kaw. The A., T. & S. F. Railway, operating along the south side of that river, while the C., R. I. & P. Railway and the Union Pacific Railroad operate along the north side of the river. Note that in Northeastern Kansas the only sizeable river is the Kaw and that it runs parallel with the railroads.

Generally speaking, the railroads in Kansas run east and west as do the rivers.

Page 2 shows the counties, principal cities and rivers in Missouri. It will be noted that there are many sizeable streams shown in Northern Missouri and that, generally speaking, they run north and south. The railroads in Northern Missouri, generally speaking, run east and west. The red line shows the southern boundary of any of the counties through which any part of the Zone I boundary runs.

Page 3 is a map of Iowa showing the counties, principal rivers and cities. General- speaking, the railroads in Southern Iowa run east and west. It will be noted that [fol. 2361] there are several sizeable streams in Southern Iowa and that they run in a northerly-southerly direction. The red line is the boundary dividing the three tiers of counties that we have used for comparative purposes from the balance of the state.

Sections V, VI, VII and VIII are self-explanatory.

Section IX contains population statistics. Page 9 shows condensed figures for the year 1940. The basic figures were not included for the reason that they are practically the same as the 1930 basic figures which are shown. Note that the population per square mile in Northeastern Kansas is 57.6; that the population of the counties in Missouri lying north of the Missouri River is 32.7; also note that while the population of all the counties lying north of the Zone I dividing line is 75.4, this includes the cities of St. Louis and Kansas City. If those two cities were eliminated and if Kansas City, Kansas, was eliminated from the Northeastern Kansas showing the figures would stand as follows: Northeastern Kansas 44.2 per square mile, Northerr Missouri 41.1. In Iowa the population is 45.3, while in Southern Iowa it is 39.7 per square mile.

Attention is also called to the fact that while the area in Northeastern Kansas represents only 11 per cent of the total area of the state that section of Kansas contains 29 per cent of the state's population. Counties in Missouri [fol. 2362] actually north of the Misouri River have 34 per cent of the land area of that state but only 21 per cent of the population, while in Iowa the Southern three tiers of counties have 29 per cent of the land area and 25 per cent of the population.

Section X shows traffic density statistics: I want to call particular attention to the 1925 comparisons. That is the only year for which the local division figures were obtainable. These density figures should be viewed in the light of the density for the divisions on which Topeka is located and the state as a whole; and also with respect to Northern Missouri, Missouri and Iowa.

The Commision's attention is likewise called to page 18 which shows the condensed figures for the years 1926 to 1938, inclusive, a period of 13 years, also to sheet 19 which is in more of a picture form and more easy to visualize. Sheets 20 to 24 cover the years 1939 and 1940.

An interesting picture is presented on sheet 25, a sheet added after the exhibit was bound. Note that for every year, 1925 to 1940, inclusive, the density in Kansas, for the divisions on which Topeka is located, of the lines serving Topeka, the percentage of the density in Official territory was greater than the percentage of that density for either Northern Missouri or of Iowa.

In connection with this Section, I want to add that I have not been able to obtain tons originated or tons terminated [fol. 2363] by divisions of road so cannot make such a comparison, however, in a study that I made two years ago for the purpose of presenting data to the Civil Aeronautics Board in support of an air line application I determined that the railroads serving Topeka, collectively speaking, handled inbound to Topeka an average of 18,292 carloads of freight yearly for the years 1935 to 1939, inclusive. Outbound they handled yearly an average of 11,558 carloads of revenue freight. The average weight of the inbound shipments was 65,723 pounds, while outbound the average was 60,025.

In the year 1939 the inbound cars numbered 16,697, the outbound 12,672.

We have at Topeka such organizations as the Topeka branch of John Morrell & Co., internationally known meat packers; the Beatrice Creamery Company, makers of the famous Meadow Gold Butter; the Seymour Packing Company, distributors of fancy poultry and eggs; the Topeka Foundry and Iron Works, now making an electric welder that is being shipped to all parts of the world; the Steel Fixture Manufacturing Company, makers of steel furniture, including office, bank and vault furniture, this furni-

ture being shipped to many parts of the country and also the Adams Brothers Company, manufacturers and distributors of paper articles, such as sales tickets, bank deposit pads, printed forms, etc., this company shipping all over the country.

[fol. 2364] Topeka, of course, has the usual line of merchants, manufacturers, fabricators, wholesalers and distributors usually found in a city the size of Topeka.

Section XI shows distances and rates: Sheet 1 is a map of Kansas. On it I have shown an outline of the territory that I believe should be embraced within Zone I; the present boundary dividing Zones II and III, the distance Topeka is from Kansas City, St. Joseph, Omaha and Lincoln, points in which the keenest competitors of Topeka interests are located; also the distances from Topeka to the three principal Kansas jobbing and distributing points, namely Wichita, Hutchinson and Salina. Topeka is only 65 miles from Kansas City; Wichita 200.7 miles; Hutchinson 212.5; and Salina 183.3. From St. Joseph, Topeka is 72 miles; Wichita 220.2; Hutchinson 227.5; and Salina 190.3. Authority W.T.L. 142-C, L. E. Kipp's I.C.C. A-2678. Atchison, Kansas, is also a Missouri River point It is only 51 miles from Topeka.

Summarizing, Topeka is the only important jobbing and manufacturing center adjacent to the lower Missouri River Crossings. It is the only such center in Kansas, intermediate between Omaha and Kansas City.

Sheet 2 shows the distances between the Mississippi River Crossings on the one hand and the Missouri River Crossings and Topeka on the other. The average distance [fol. 2365] to Topeka is 63 miles greater than to Kansas City; 59 miles greater than to St. Joseph; 2 miles greater than to Omaha; and is 57 miles lesser distant than Sioux City. All of the Missouri River Crossings are in Zone I.

Sheets 5 and 6 show a history of the class rates between St. Louis and Topeka compared with St. Louis to Kansas City. I have started with 1912 for the reason that the Commission set the class rates to Topeka with relation to the class rates to Kansas City in State of Kansas vs. A., T. & S. F. Railway Co., 27 I.C.C. 673, decided June 18, 1813.

Attention should here be called to the fact that while the prescribed first class rate St. Louis to Kansas City is shown as $1.13 the going rate is 92 cents as published in W.T.L. 298-F, L. E. Kipp's I.C.C. A-3402.

On sheet 7 is the differential adjustment that Topeka enjoyed for approximately 30 years.

In 1899 a conference was had between representatives of Topeka shippers, railroads and the State Commission with respect to rates to and from Topeka. Shortly following that conference the differential basis was established. On shipments from Topeka to points west of Topeka a certain differential, depending on the class, was deducted from the Missouri River-Kansas destination point rate to arrive at the Topeka-same destination point rate. Lesser differentials were deducted when the destinations were [fol. 2366] points south of Topeka. There were also fixed differentials on commodities such as coffee, sugar, canned goods, syrup and beans. There were also differentials on classes 5 and A, and the lower classes.

Following the decision of the Commission in Consolidated Southwestern Cases the class rates from the Missouri River cities in Missouri to points in Kansas were materially increased; no increases were made in the intrastate rates in Kansas; the differentials applicable in making the rates from Topeka were applied to the rates from the Missouri River cities in Kansas.

This situation brought forth a complaint from the Missouri River cities, Docket 21206, Chamber of Commerce of Kansas City vs. A., T. & S. F. Railway Co., 164 I.C.C. 302. The Commission found prejudice and preference to exist and ordered it removed. Later that order was rescinded, see Western Trunk Lines Class Rates, 204 I.C.C. 595, 606.

Prior to the upheaval created by Docket 13535 the rates on commodities to and from Topeka were pretty closely aligned with those applying to and from Kansas City. As an illustration the rate on butter, eggs and dressed poultry was the same from Topeka to Chicago as from Kansas City to that point, namely 76 cents. The same situation existed with respect to the same commodities destined Memphis. [fol. 2367] On meats, hides and tallow the Commission prescribed a differential of 4 cents per hundred Topeka versus Kansas City on shipments destined Chicago and east. Allied Packers vs. A. & S. Railway Co., 160 I.C.C. 596.

I have dwelt at length on these particular situations to demonstrate to the Commission that prior to July 14, 1928, Topeka had an adjustment fairly competitive with Missouri River cities. That is without doubt the reason why so few complaints emanated from Topeka during that period.

Sheets 8 and 9 are self-explanatory.

Sheets 10 and 11 show the distances between Kansas City, Topeka, Wichita and Salina on the one hand and representative eastern points on the other. Computing the percentage relationship Topeka versus Kansas City I find that at Boston the distance to Topeka is 105 per cent of the distance to Kansas City; New York, 105 per cent; Cleveland, 109 per cent; Detroit and Grand Rapids, 110 per cent; Indianapolis, 113 per cent; Evansville, 115 per cent; Louisville, 112 per cent; Chicago, 116 per cent; and St. Louis, 124 per cent.

Sheets 13 to 22 are self-explanatory.

Section XI-A shows a few comparisons of various scales and the percentage relationship that one bears to the other. Page 1 shows cumulative rates per 100-mile jumps. Zone II ranges from 125 per cent to 146 per cent of the Eastern [fol. 2368] Scale while Zone I ranges from 111 per cent to 128 per cent of that scale. The Basic Scale, the one used as the underlying scale in constructing rates between W.T.L. and the East ranges from 100 per cent to 112 per cent of the Eastern Scale. Sheets 2 and 3 show the scale proposed by Witness Jensen as constructed by Topeka. Sheets 4 and 5 show rates between Kansas City and Topeka on the one hand and representative points in the East on the other constructed by using the specifically prescribed rates and as made by the use of the various scales prescribed or as recommended by Witness Jensen. I have also shown the spread in the rates and the percentage relationship. Ex Parte 123 Increases are not included.

Sheets 6 and 7 show the same information as sheets 4 and 5, except that the Ex Parte 123 Increases have been added. The increases were not added to the rates made by the use of the proposed Jensen scale. Sheets 8, 9 and 10, added after the exhibit was bound, compare the various scales with the Kansas 14180 Scale. The scales were not carried beyond 500 miles because the Kansas Scale ends at that point. The 14180 Scale alternates with the W.T.L. Scales and applies only on l.c.l. traffic. In connection with the 14180 Scale there are published, in the tariff carrying the scale, 59 items of exceptions, these items covering some 1,219 commodities. The 14180 Scale also applies interstate between Kansas on the one hand and the Missouri River [fol. 2369] cities, Southwestern Missouri, Oklahoma and Northwestern Arkansas on the other.

In connection with the rates in Kansas the contract motor carrier may transport l. t. l. traffic at a minimum of 80 per cent of the common motor carrier rates, which are the same as the rail rates, and may transport commodities in quantities of 5,000 pounds or more at the rail carload rate existing as of July 1, 1938.

Exhibit No. 118 consists of four pages and the cover pages. Sheet 1 is a topographic map of Eastern Kansas; sheet 2 a topographic map of Northern Missouri and sheet 3 a topographic map of Iowa. A study of these three maps is invited. In my opinion they show a striking similarity of topographic conditions. Sheet 4 is a map of the United States. On this map I have drawn in red the territory involved in Docket 28300; in blue the cities of Kansas City, St. Joseph, Omaha, Lincoln and Topeka; also in blue I have outlined the eastern boundaries of Missouri and Iowa; the northern boundaries of Iowa and Kansas; the western boundary of Kansas and the southern boundaries of Kansas and Missouri. Kansas joins Missouri while Nebraska joins Iowa.

I want briefly to touch on the highway situation. I have traveled over all the highways in Northeastern Kansas and Northern Missouri. I have not traveled in Iowa. My opinion, based on actual traveling experience, is that the [fol. 2370] highways in Northeastern Kansas and Northern Missouri are on a par. From general knowledge I would say the same with respect to a comparison of the highways of Iowa with those of Northeastern Kansas.

Dealing now with Part II:

Witness Jensen at page 92, Exhibit No. 7 suggests that rates cannot be made proper at this time without too drastic a result on business. He then states that the Commission should look forward to another general investigation in from five to ten years.

In my opinion there is not one thing that will upset business as much as the knowledge that there is an investigation of freight rates int he offing, hence it is my candid opinion that the Commission should in these proceedings lay a strong foundation at least for a lasting adjustment.

I do not believe that class rates should be applied to commodities that move in volume. Class rates should apply on l. c. l. traffic and on commodities that move spasmodically

and possibly on commodities of great value and bulk. Frequently, as to commodities, for the sale of which there is keen competition, rates made a fixed percentage of first class results in too great a spread. As an illustration the Commission in National Poultry, Butter & Egg Association vs. Aberdeen & R. R. Co., 192 I. C. C. 13, prescribed 60 per cent of first class for application on carload shipments of butter, [fol. 2371] eggs and dressed poultry. The 60 per cent rate from Topeka to New York is $1.60, from Kansas City, $1.49, a spread of 11 cents. The railroads later published a differential of 4.5 cents (now 5.5 cents.) Authority Trunk Line Tariff No. 107-B, W. S. Curlett's I. C. C. No. A-593. In connection with this may I call the attention of the Commission to its decision in Protective Service to Perishable Freight, mimeographed, dated September 8, 1942, wherein at sheets 10 and 11 thereof the Commission calls attention to statement accredited to a representative of a Topeka concern to the fact that in 1940 there moved from the particular plant 284 truckloads of dressed poultry or eggs. This would indicate, in my opinion, that the present spread, while only 50 per cent of the spread originally prescribed by the Commission is still too great to protect the rails.

The destination classification should apply and also the general exceptions applicable in the destination territory.

If different scales are prescribed the interterritorial rates should be constructed by the use of the lowest scale applicable in any part of the territory traversed, as the base scale, and the Jensen theory applied. This method I believe is similar to that prescribed by the Commission in Watertown Chamber of Commerce vs. C. & N. W. Railway Co., 101 I. C. C. 441, 445.

[fol. 2372] Under existing competitive conditions pick-up and delivery should be included in the rate.

I do not believe any stabilized rate structure can be maintained throughout the country so long as there exists differences in Parts I and II of the Interstate Commerce Act as such differences exist today. I refer specifically to the lack of a Section in Part II similar to Section 13 in Part I and to the lack of a section in Part II similar to Section 1, Paragraph 8, Part I of the Act.

As an illustration, the first class rate prescribed by the Commission for Interstate application from St. Louis to Kansas City is $1.13 but because of motor carrier competi-

tion the going rate is 92 cents. Authority W. T. L. 298-F, L. E. Lipp's I. C. C. A-3402.

St. Louis and East St. Louis are adjacent cities as are Kansas City, Missouri, and Kansas City, Kansas, and it is impossible, because of competitive conditions, one route being intrastate and another interstate, to protect any rate but the lowest rate for both intrastate and interstate movements.

In connection with the above statement the Commission is respectfully referred to All Freight Between St. Louis and Kansas City, 234 I. C. C. 593.

Frankly stating it, rates should be made to move the traffic.

[fol. 2373] Dealing with Part III:

Consolidated Freight Classification No. 15, R. C. Fyfe's I. C. C. No. 28 contains 316 pages; 241 pages of which are devoted to ratings.

Today very seldom is the classification used for rating purposes; the Exception Tariffs as a rule governing.

As an illustration to what lengths it has been necessary for the railroads to go to with respect to exception ratings, I list below the Exception Tariffs that are on file in our Topeka office:

Agent: I. N. Doe. Tariff number: Rail, 30-J; I. C. C. 475. Territory: New England. Pages: total, 242; ratings, 100.

Agent: W. S. Curlett. Tariff number: rail, 9-I; I. C. C. A-478. Territory: Trunk Line. Pages: total, 341; ratings, 108.

Agent: B. T. Jones. Tariff number: rail, 130-B; I. C. C. 3684. Territory: Central Freight. Pages: total, 339; ratings, 130.

Agent: W. S. Mercer. Tariff number: rail, 80-C; I. C. C. 501. Territory: Illinois Freight. Pages: total, 251; ratings, 74.

Agent: L. E. Kipp. Tariff number: rail, 25-C; I. C. C. A-3411. Territory: Western Trunk Line. Pages: total, 201; ratings, 130.

[fol. 2374] Agent: J. R. Peel. Tariff number: rail, 173-O; I. C. C. 3475. Territory: Southwestern Territory & I. T. Pages: total, 252; ratings, 150.

Agent: W. S. Mercer. Tariff numbers: rail, 90; I. C. C. 530. Territory: Southern. Pages: Total, 370; ratings, 190.

Agent: B. T. Jones. Tariff number: rail, 604; I. C. C. 6365. Territory: Southern. Pages: total, 379; ratings, 203.

Agent: W. S. Curlett. Tariff number: rail, 141; I. C. C. A-709. Territory: Southern. Pages: total, 257; ratings 127.

Agent: E. H. Dulaney. Tariff number: rail, 21; I. C. C. 86. Territory: Southern. Pages: total, 244; ratings, 187.

Agent: B. T. Jones. Tariff number: rail, 545-H; I. C. C. 3639. Territory: I. T.—W. T. L., East. Pages: total, 219; ratings, 50.

Agent: L. E. Kipp. Tariff number: rail, 938-H; I. C. C. A-3382. Territory: I. T.—W. T. L., East. Pages: total, 182; ratings, 123.

Agent: L. E. Kipp. Tariff number: rail, 386-C; I. C. C. A-3353. Territory: I. T.—W. T. L., South. Pages: total, 316; ratings, 269.

In addition to the general exceptions tariffs there are many agents and individual lines' issues that carry exceptions applicable only to the particular tariff in which published. As an illustration in Western Trunk Lines Tariff [fol. 2375] 275-E, L. E. Kipp's I. C. C. A-3403 applicable intrastate in Kansas and interstate between Kansas points on the one hand and the lower Missouri River crossings on the other, there are 59 Items of Exceptions in which are carried 1,219 exceptions as to various articles. To show how the rates are affected, here are a few samples: berries, bananas and other fruits and vegetables classified first class in the classification are rated third class; fresh meats, rated first in the classification are second class; hardware, generally second, rated third, and so on.

There are seven ratings in the classification proper for Official Territory; twelve in Southern Territory and ten in Western Territory.

The Commission in Consolidated Southwestern Cases prescribed 19 Column Ratings while in Western Trunk Line Class Rates it prescribed 23 Ratings.

Checking several effective tariffs, I find the following ratings:

Territory	*Agent*
Official	B. T. Jones
Southern	F. D. Miller
W. T. L.	L. E. Kipp
I. T.—O.—W. T. L.	W. S. Curlett
I. T.—SOU—W. T. L.	L. E. Kipp

[fol. 2376]

Rail	Tariff Number I. C. C.	No. Column Ratings
480	2444	112
717-C	717	128
230-A	A-2592	84
107-B	A- 593	114
385	A-3020	97

Refining these, I get the following results:

Ratings	East	South	West	I. T. E.-W.	I. T. S.-W.
100 and over	90	3	2	1	3	1
90 " "	80	3	2	3	3	1
80 " "	70	5	6	6	5	4
70 " "	60	8	7	7	9	7
60 " "	50	9	7	6	10	5
50 " "	40	14	16	13	15	18
40 " "	30	24	22	14	25	18
30 " "	20	33	37	17	32	23
20 " "	10	13	28	15	12	19
10 " "	0	0	1	2	0	1

I believe the following should amply take care of all shipments:

100 95 90 85 80 75 70 65 60 55 50 47½
45 42½ 40 37½ 35 32½ 30 27½ 25 22½ 20 17½
15 12½ 10 9 7½

[fol. 2377] In this connection it is my opinion that until such time as Part II of the Interstate Commerce Act is amended to include a section similar to Section 13 of Part I of the Act and also, to include a section in Part II similar to Section I, paragraphs 8 of Part I of the Interstate Commerce Act the railroads must continue to make extensive use of Classification Exceptions.

At this time, if you please, I wish to offer in evidence my Exhibits 117 and 118.

Chairman Aitchison: Without objection they are received.

(Exhibits Nos. 117 and 118, Witness Real, received in evidence.)

Chairman Aitchison: That completes your direct presentation, does it?

The Witness: Yes, sir.

Chairman Aitchison: Cross-examine.

Mr. Weeks: I have just a question or two, if your Honor please.

Cross-examination.

By Mr. Weeks:

Q. Mr. Real, first, in connection with your Exhibit No. 117, please.

A. Yes, sir.

Q. Referring to Section 6 thereof: you have shown there certain manufacturing data for a number of counties in Kansas and Missouri.

[fol. 2378] A. Yes.

Q. Did you include the manufacturing data for the city of Topeka, Kansas, in these Kansas counties?

A. It is all included, yes, Mr. Weeks. I tried to get the manufacturing data for all of the counties, but the Kansas Employment Bureau—or rather, the Kansas Labor Bureau did not have its data out so that I could get it.

Q. I do not know if I understand your answer or not. It does include Topeka, however, does it?

A. Yes, sir, it includes all of the 16 counties in northeastern Kansas.

Q. Now, will you explain why, in connection with North Missouri Zone 1 information, you eliminated Jackson County and St. Louis County, and the city of St. Louis, from your figures?

A. Well, I have shown them both ways, Mr. Weeks. I eliminated them to show a comparison of northeastern Kansas with northern Missouri and southern Iowa. As far as Kansas City is concerned, Kansas is just as much responsible for Kansas City as is Missouri, and Illinois is just as much responsible for St. Louis as is Missouri; and I wanted to show the general conditions.

Q. But you have not included here the manufacturing data for Jackson County and the city of St. Louis in your figures, have you?

[fol. 2379] A. Yes, it is in there.

Q. But separated from the other north Missouri figures.

A. Yes, sir, it is in there, but separated, later.

Mr. Weeks: That is all.

Chairman Aitchison: Is there further cross?

Mr. Dyers: I would like to ask the witness a question or two, if the Chairman please.

By Mr. Dyer:

Q. Mr. Real, referring first to page 6 of Section 1 of your exhibit 117, please.

A. Yes, sir.

Q. That shows the present western boundary of Zone 1, and the proposed western boundary of Zone 1, does it not?

A. Yes, sir.

Q. Do you have any objection to extending that boundary to points beyond?

A. None.

Q. That is, if it can be justified.

A. No.

Q. Now, will you please refer to page 7 of Section 1 of the same exhibit.

A. Yes, sir.

Q. That is covered by your testimony, on page 12 of your prepared statement—or rather, page 6, I should say. Is that correct?

A. Yes, sir.

[fol. 2380] Q. You make certain statements there with respect to the lines shown in green and red.

A. Yes.

Q. Those lines, as I understand it, are the lines that the Commission set out in Fourth Section Application No. 17202.

A. Yes.

Q. Now, will you please refer again, Mr. Real, to the third paragraph on page 6 of your prepared statement. You say something there with reference to the fact that the Commission had prescribed a new rate level in Kansas. That is correct, is it not?

A. Just a moment.

Q. I might add, that would also take in the next paragraph likewise, would it not?

A. Well, I do not say anything there about any rate level, in either paragraph, Mr. Dyer.

Q. Do you state in your testimony anywhere, anything to the effect that the Commission did in Fourth Section Application No. 17202 establish new rate levels in Kansas?

A. No, sir, I do not. I say that in the Fourth Section Application No. 17202 proceeding, the Commission allowed the northern lines in Kansas to give Topeka the relief it said it was entitled to; in the 24th Supplemental Report in the Consolidated Southwestern Cases.

Q. Is that your understanding, Mr. Real, of what the [fol. 2381] applicant sought in that Fourth Section application?

A. The applicant sought relief, to give northeastern Kansas—or rather, northern Kansas, ratings to and from the Missouri River cities, without observing said ratings in southern Kansas.

Q. Of course, Mr. Real, the report and order of the Commission will speak for itself.

A. That is right.

Q. But did not the carriers in that particular application, seek authority, for the account of those carriers whose routes extended through restricted territory, or the right to meet rates that had been established, or that were to be established, by Direct-line routes in unrestricted territory?

A. Ratings.

Q. I mean to say, ratings.

A. Yes, sir.

Q. So the application applied only to the indirect routes, and not to ratings in connection with direct routes; is that correct?

A. Yes, sir, that is right, but the direct routes had to have relief for the indirect routes, before the direct routes would grant the relief that we asked for.

Q. In other words, that is, before they would accede to your demand; is that correct?

A. Our request.

[fol. 2382] Q. Your request?

A. Yes, sir.

Q. Now, Mr. Real, have you checked the tariffs to determine whether or not these lines are at the present time reflected in tariff publications, in any item?

A. I do not get the question.

Mr. Dyer: Will you read it, please.

(Question read.)

Mr. Witness: I am very sorry, Mr. Dyer, but I still do not understand what you are driving at.

By Mr. Dyer:

Q. Well, this is what I mean, Mr. Real: are there now rates published—or ratings, rather, published to the territory north of the green line, which make it necessary for the indirect routes to use the fourth section relief granted on the movement of traffic through restricted territory, to meet the rates of the direct routes.

A. No, sir, I think that the carriers have only published them to what they call the east-of-the-Missouri-River territory, so-called, which includes northeastern Kansas, as described in my exhibit.

Chairman Aitchison: Are you talking about class rates, now?

Mr. Dyer: Class rates and exceptions.

Chairman Aitchison: We are not dealing with exception ratings here.

[fol. 2383] Mr. Dyer: All right, Mr. Chairman; the class rates only, then.

By Mr. Dyer:

Q. Mr. Real, do any of the lines serving Topeka have routes through restricted Kansas territory?

A. No.

Q. So, then, your statement to the effect that it was necessary for the Topeka lines to secure this relief prior to the granting of relief—Missouri River relief, I will put it that way——

Chairman Aitchison: You had better start your question over again. It is not clear.

Mr. Dyer: All right, sir.

By Mr. Dyer:

Q. Then, Mr. Real, your statement to the effect that it was necessary for the lines serving Topeka, to secure relief in order to afford Topeka the Missouri River basis of ratings, is not grounded on a statement of fact, is it?

A. My statement was correct. The ratings—or rather, I mean to say the carriers, asked for relief to all of Kansas, but they were only accorded relief to what is now termed the east-of-the-Missouri River territory, which includes Topeka.

Q. But that relief was not necessary in order to give you the Missouri River ratings, was it?

A. Yes, sir, that relief was necessary, because the car-[fol. 2384] riers would not give it to us unless the Commission authorized it to the rest of Kansas.

Chairman Aitchison: Now, just a moment. Is it necessary for us to go into all of this? Why not bring a separate complaint, if there is any grievance of that sort? This proceeding here is a broad case, and we cannot go into minutiae of that sort here.

Mr. Dyer: May I say, Mr. Chairman, the reason that I have been cross-examining the witness with respect to these matters, along the line that I have been cross-examining him upon, was because of the statement made by the witness on pages 7 and 8 of his prepared testimony, beginning with the second paragraph on page 7 and ending with the first paragraph on page 8, which in my opinion does not reflect the exact facts. I was fearful lest the Commission might be misled by the statement that the witness had made.

Chairman Aitchison: Pages 7 and 8?

Mr. Dyer: Yes, sir.

The Witness: Well, may I say, Mr. Chairman, that the statement referred to does reflect the exact facts.

Chairman Aitchison: Proceed.

By Mr. Dyer:

Q. Mr. Real, did you participate in the proceedings had under I&S Docket No. 4597, commonly known as the Heating Apparatus case?

A. Yes.

[fol. 2385] Q. You drew a very fine petition in that case, did you not?

A. I drafted a petition.

Q. And in that case the Commission denied the Western Trunk Line carriers the right to establish certain ratings throughout Western Trunk Line Territory, other than restricted territory in Kansas, did it not?

A. Well,——

Q. That is, without extending those rates,—or those ratings to include Wichita, Kansas.

A. That is right.

Q. And as a result, the carriers extending the ratings to Wichita, including the line of the Missouri Pacific Railroad east through El Dorado, Eureka, and Fort Scott; is that correct?

A. Yes, sir.

Q. But they did not extend the ratings to the territory in Kansas south of that line, did they?

A. I think that is correct.

Q. Now, will you refer, please, Mr. Real, to Section 10, page 25 of your exhibit.

A. Yes.

Q. Those figures—and this is largely for clarification purposes, I may say—shown under the column Northeast Kansas for the years 1925 to 1940, are the figures as shown in the preceding pages of this section for the four lines [fol. 2386] serving Topeka, are they not?

A. Yes.

Q. Now, Mr. Real, do those figures reflect the densities of all of the sections of those lines, or all of the divisions of those lines in northeastern Kansas?

A. They reflect all of the figures—that is, the figures for all of the lines within the divisions as described in the exhibit —yes, sir.

Q. But they do not include all sections of the lines in northeastern Kansas of the Rock Island, Missouri Pacific, and Union Pacific, is that correct?

A. Yes, sir. —or, rather, I mean to say, no, sir, that is not correct. They do.

Q. Well, now, I may be mistaken, Mr. Real, but does it extend to, or does it include the section of the Rock Island Railway between Horton and the Kansas-Nebraska line?

A. Yes, sir,—well, now, just a moment. I am not so sure about that either. It includes all of the lines of the Rock Island Railway, as representative, within that division; but I am not just exactly sure as to whether or not it includes that portion of the line from Horton, Kansas, to the Nebraska-Kansas state line.

Q. Well, that particular section of the Rock Island Railway is in northeastern Kansas, is it not?

A. Yes, sir, that is true, but it is a very short section.

[fol. 2387] Q. I was not able to find it in the prior portion of the exhibit.

A. The territory that is covered by the density figures shown is plainly indicated within the exhibit.

Q. That may be true, Mr. Real, but on page 25 of this particular section you head the column "Northeast Kansas."

A. Yes.

Q. My point is this, that the heading which you have set up there is a misnomer, is it not?

A. No.

Q. In other words, there are certain low density traffic lines in northeastern Kansas that are not shown in your figures here; that is correct, is it not?

A. No, sir. I do not believe that there are any low-density traffic lines in northeastern Kansas; and this covers all of northeastern Kansas, as described in the exhibit. Now, as to northeastern Kansas, there are the four lines serving northeastern Kansas, and serving Topeka.

Q. Does it not also include the north branch of the Missouri Pacific, or does it include that section? To shorten it, that is a low traffic density line, is it not?

A. Are you sure of that?

Q. Does it include that line?

A. It includes the Missouri Pacific central branch, which would be from Leeds, Missouri, to Hoisington, Kansas; Fort [fol. 2388] Scott to Topeka; and Gypsum City to Marquette, —shown on page 10 of that section of the exhibit.

Q. And Aitchison to Kansas City,—it includes that, does it not?

A. Just a moment.

Q. Well, it does not include the section of the line west of Atchison—the branch line, from Atchison west, does it?

A. No, sir, I don't think that it includes either one of those, no, sir,—the central branch line.

Q. Well, then, you would modify, would you not, the heading now described as "Northeast Kansas"; shown on page 25 of your exhibit, to include what you have shown in the prior sections—or in the prior figures in the chapter; is that correct?

A. Only to the extent that it includes generally in the exhibit, the sections shown, but it does not include the Missouri Pacific north line, which is not in that division.

Q. And that is a branch line?

A. Yes, sir.

Q. Of course, naturally, if that had been included, your figures would be modified to that extent, at least, would they not?

A. I don't know.

Q. Well, they would have been modified to whatever extent they would have been affected, either up or down, would they not?

[fol. 2389] A. No, sir. They might have been modified, or they might have been the same. I wouldn't be able to say as to that.

Q. All right. Now, will you refer, please, to page 11—or rather, page 10 of Section XI?

A. Yes, sir.

Q. There is a question in my own mind as to whether or not there have been some errors made on that page. I notice, for example, that under Column 110 you show distances of 201 for the first three points after Boston, Massachusetts, while you show 218 miles for that section to Wichita. Now, inasmuch as your route is through Kansas City, would not the sections east of Kansas City—or rather, I mean to say, the figures east of Kansas City, for the section east of Kansas City, be the same for both Kansas City and Wichita.

A. I don't just follow you.

Q. In other words, Mr. Real, what I have in mind is this, that your figure should be 201, rather than 218, should it not?

A. What point are you speaking from?

Q. Pardon me?

A. Between what points, that is, are you speaking?

Q. Boston.

A. Boston and what?

Q. Wichita.

A. Boston and Wichita?

[fol. 2390] Q. Yes—Column 110.

A. The Wichita figures, according to reference (b) on page 11, are shown as applying through Chicago. Your 218 would be through East Ft. Madison.

Q. Well, it is also figured over Kansas City, is it not?

A. Yes, sir, that is right, but it might be figured through a different junction, to all of your zones.

Q. Well, as to your shortline distance east of Kansas City, would not your figures—or rather, would not your route be the same for Wichita as it would be for Kansas City?

A. Why, not necessarily, it would not be, no, sir. However, that is subject to check, of course.

Q. Well, there are some other similar items that I thought to be errors, on that same page.

A. Oh, there may have been an error made somewhere here, I will admit that; but these things are all subject to check.

Q. I thought it might be detrimental to Wichita, and that was the reason that I wanted to bring it out.

A. Well, we do no want to do anything that is detrimental to Wichita, Mr. Dyer, or any other point in Kansas, either.

Mr. Dyer: That is all.

Chairman Aitchison: Is there further cross-examination?

(No response.)

By Com. Alldredge:

Q. By the way, Mr. Real, referring to page 25 of Section X of your exhibit, what is the unit of comparison there, [fol. 2391] please?

A. Page 25?

Q. Yes, Section X.

A. The comparison there, Mr. Commissioner, is between the divisions in Northeastern Kansas of the rails serving Topeka, in the various states shown.

Q. I know, but what unit of comparison do you use? In other words, what do those figures mean?

Mr. Dana T. Smith: Ton miles per mile of line,—are they not?

The Witness: Yes.

By Com. Alldredge:

Q. Is that what they are?

A. Yes, sir.

By Mr. Bee:

Q. Pardon me, Mr. Real, but may I inquire, if those figures are per mile of line, or per mile of road.

A. Per mile of road.

Mr. Bee: Thank you.

Chairman Aitchison: If there is nothing further, you are excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record. Mr. Porter, you may proceed.

Mr. Porter: Mr. Schreiber.

[fol. 2392] C. E. SCHREIBER was sworn and testified as follows:

Direct examination.

By Mr. Porter:

Q. State your name.

A. C. E. Schreiber.

Q. Your residence?

A. Madison, Wisconsin.

Q. Your employment?

A. Transportation statistician for the Public Service Commission of Wisconsin.

Q. Just briefly, Mr. Schreiber, what has been your experience in dealing with transportation and general statistics?

A. I have been engaged for more than 35 years last past in the analysis of transportation and economic statistics and costs. The great bulk of that work has been in connection with either the Railroad Commission of Wisconsin, or the Public Service Commission of Wisconsin; but I have done work of a similar character for other interests as well. Under the Railroad Coordinator I was a member of the Advisory Committee to the Section on Cost Findings.

Q. Have you been engaged, in connection with this case, in collaboration with others from neighboring states, in the gathering of certain statistics to be presented in evidence here?

A. Yes, sir.

Mr. Porter: If the Commission please, may we at this [fol. 2393] time have Mr. Schreiber's exhibit marked as Exhibit 119 for identification.

(Exhibit No. 119, Witness Schreiber, marked for identification.)

By Mr. Porter:

Q. Have the statistics which you have been engaged in compiling, been assembled in the document which has just been marked as your Exhibit No. 119 for identification?

A. Yes, sir.

Q. Is that exhibit true and correct, so far as you know?

A. To the best of my knowledge and belief, the exhibit is true and correct, yes, sir.

Q. Will you please proceed, now, in your own way, Mr. Schreiber, to discuss the exhibit, and to offer such further testimony as you desire to submit.

Chairman Aitchison: Well, now, just a moment. You cannot very well expect us to divine what the purpose of the exhibit is, or what it shows, from just having some 54 pages of this size thrown at us.

Mr. Porter: The witness was just about to proceed to explain the exhibit, if the Commission please.

The Witness: I was just starting in, Mr. Chairman, to give an outline of the exhibit, as briefly as I possibly can.

Chairman Aitchison: That is what we want.

[fol. 2394] By Mr. Porter:

Q. Will you please proceed with that in mind, then, Mr. Schreiber.

A. The main purpose of the exhibit is to develop a difference in the general economies of the various parts of the country; to trace to a limited extent, the trends in those economies, and further, to trace the change in the traffic, as regards amounts of traffic originated, over the period of the last 10 years, particularly, for those commodities which might be described as being of a general class rate nature, rather than the bulk commodities, such as iron, coal and grain,

By Chairman Aitchison:

Q. Well, now, Mr. Schreiber, that may show what the trends are, but how are we going to find out what the trends are? Do you want us to sit down and try to figure those things out?

A. I will try right now to tell you how, Mr. Chairman, from the exhibit itself.

Chairman Aitchison: All right.

A. The data in the exhibit are mainly self-explanatory, and I intend to give only enough explanation so that a person may readily understand what the exhibit is. Throughout the exhibit I have used two territorial set-ups; the first by railroads are railroad groups; and the second by states are state groups. The railroad groups are used on pages 17 to 36, inclusive, and they are the standard grouping that is used for general transportation statistical purposes, with [fol. 2395] divisions into districts and regions. However, there is one deviation from what might be called the standard grouping, in that I have shown the Pocahontas region separately, and not as a part of the Southern district. As the result, the totals for the United States, as I show them, are made up of the Eastern district, the Western district, the Southern region, and the Pocahontas region. The reason for setting it up that way was because of the peculiar situation that exists, particularly as regards the type of traffic handled by the Pocahontas lines, and the fact that those lines seem to be more closely related to the northern lines, in general, from a rate and classification standpoint. States or state groups are used throughout the exhibit, and wherever limitations of space did not forbid, the data are shown for individual states. Whereveer a space did not seem to permit, we have used certain state groupings. Those groupings are the standard census groupings, with certain exceptions. The exceptions are that Delaware, Maryland, the District of Columbia, Virginia and West Virginia are taken out of what is ordinarily called the South Atlantic group; and the states of Iowa, Missouri and Minnesota are taken out of what is commonly referred to as the Northwest-Central group. The general purpose of this was to separate out these states from the ones which seem to be the main proponents of radical changes in the class rate set-up throughout the country. [fol. 2396] The reasoning with regard to Virginia and West Virginia, for the separation of the South Atlantic group—and I have set them up as a separate group—was that they correspond roughly to the Pocahontas lines. Delaware, Maryland, and the District of Columbia seem to be more closely related in all respects to the northern states than to the Atlantic states to the South. Minnesota, Iowa and Missouri are the three states lying between the Mississippi River and the Missouri River. They are to a very large extent served by the same railroads that serve the Western Trunk Line territory west of the Missouri River, but

their general economic set-ups differ quite materially from the states west of the Missouri River. In this set-up in my exhibit they are combined with the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin, which are ordinarily referred to as the East-North Central group. Professor McCarty and Professor Bentley, in a later exhibit, will present data showing the homogeneous character of the territory covered by the group. Pages 1 and 2 of the exhibit are intended to give a general picture of the relative extent to which the general economy of the various states depends upon manufacture, agriculture, and mineral extraction. The figures for minerals are understatements, inasmuch as it was an impossibility to get data for certain minerals, such as sand and gravel, and other minerals which are not covered by the Mineral Year Book statements.
[fol. 2397] There probably are some duplications in the figures as between the three groups of industries and to avoid that as far as possible I have used for manufacturers, the value added by manufacture rather than the value of manufactured products. For the reason that there are duplications, the totals given in columns 3 and 4 are not really true totals. They are really inserted here for the purpose of getting the percentage distribution between the three separate groups of industries. The per capita figures in column C should not be taken as an increase of income as regards the various territories.

Pages 3 and 4 serve the same general purpose. I have used here the three, what I considered basic occupations and also have added transportation and communication. That is in columns J and K. Frankly, I believe columns J and K could just as well have been combined with all others, inasmuch as transportation, retail and wholesale trading and occupations of that kind, I consider in a general way as industries or occupations superimposed upon the basic industries.

Chairman Aitchison: Now, that is something that might look all right in the World Almanac, but what conclusion is the Interstate Commerce Commission to draw from it?

The Witness: This is to show a picture of the general economic set-up of the country, Mr. Chairman. I think that has a bearing on the issues in this case.
[fol. 2398] Chairman Aitchison: How is it to sway our judgment? What is it to show?

The Witness: I do not care to go into argument.

Chairman Aitchison: No, but we are entitled to know, it seems to me. You are an expert. You qualified as such. We are entitled to know what conclusion you wish us to draw from these statistics.

The Witness: The rate structure of a territory has to be drawn out, to my notion, in accordance with the general economy of the territory.

Chairman Aitchison: Now, does this show what the situation is in the territory you are interested in, in these four states, compared to the rates, or what conclusion can you draw?

The Witness: The main interest or primary interest is manufacturing.

Mr. Porter: May I interrupt right there, Mr. Chairman, to ask a question?

Chairman Aitchison: Yes.

By Mr. Porter:

Q. Does it show, for example, that the territory for which you are speaking is more nearly comparable in economic development and economic activity than the territory, for example, south of the Ohio River?

A. Yes.

Q. And west of the Missouri River?

[fol.2399] A. I think it does, Mr. Porter.

Q. All right. Will you proceed.

A. There were numerous classification changes in the classification of occupations as used in the 1920, 1930 and 1940 censuses. For that reason the absolute drop for any particular region has to be considered in connection with the corresponding drop or change for the entire country. Pages 5 to 7 show general statistics of manufactures with the percentage reduced to a per capita basis on pages 6 and 7.

Chairman Aitchison: Do you draw any inference from those which has any bearing on this case we are trying here?

The Witness: The same way I explained before, Mr. Chairman. That is, these territories for which I am speaking have a heavy interest in manufactures and it is my view that the transportation pattern, or the rate pattern for a territory should take into consideration the general

economics of the region. I do not believe that data on pages 5 to 7 requires any further explanation.

Chairman Aitchison: All right. Proceed.

The Witness: In connection with pages 8 to 12, I want to call your attention to a correction that should be made. Columns D F and E relative to wages, value of products and values added by manufacture should all bear the notation that the amounts are in thousands rather than absolute figures. In other words, taking the United States for [fol. 2400] 1939, under wages the amount is given as nine million. It in reality is nine billion. The same applies to value of products. Then the next figure is 56 billion and values added by manufacture is 24 billion.

Com. Splawn: Do you show the character of your manufacturing, whether it is heavy goods, products moving on commodity rates, or finished goods moving on merchandise rates?

The Witness: Not in this connection, Mr. Commissioner. Later on I have divided the railroad traffic in that way, but as to the general statistics of manufactures, it would be very difficult; it is probably possible, but it would be very difficult to make that separation. It would be a long detailed job.

Com. Splawn: Are you undertaking to show a similarity between Illinois, Indiana and Ohio with all of Official Territory?

The Witness: I am showing a general picture for the entire territory from the Missouri River to, roughly, the Buffalo-Pittsburgh line as a single group, Mr. Commissioner. In other words, it is Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa and Missouri combined.

Com. Splawn: Now, within that area, we have much of the manufacturing of the heavy goods of the country, have we not?

The Witness: We have, yes, sir.

Com. Splawn: Does your exhibit throw any light on how [fol. 2401] the manufacture of goods that move on class rates in that area compares with simlar production of manufactured products in other areas?

The Witness: Not this portion of the exhibit, Mr. Commissioner, which is the statistics of manufactures proper. Later in the exhibit I do break the railroad traffic up between what you might call the main bulk commodities and commodities which move on or are influenced by class rates.

In other words, later on I use the distinction, or the appendix 2 list in the proposed order for traffic study as the dividing line between the main or bulk commodities, and those of a class rate nature. I do not believe pages 8 to 12 require any further explanation.

Mr. J. R. Bell: Mr. Chairman, may I ask one question there so I can follow this testimony?

Chairman Aitchison: Yes.

Mr. J. R. Bell: In a number of places in your exhibit you have columns entitled "Wage Earners".

By Mr. J. R. Bell:

Q. Will you state whether or not included in the term "wage earners" is everybody earning a wage? That is the same as the population wage earners, is it not?

A. I am not sure I understand your question, Mr. Bell. It does not include the total personnel of the manufacturing industries inasmuch as executives and officials are excluded. On the other hand it is not anywhere near as broad as the [fol. 2402] general classification of wage earners because it is only the persons engaged directly in manufacturing as reported in connection with the individual industries.

Mr. J. R. Bell: All right.

The Witness: For it is the summation of what is reported in connection with the individual industries.

Chairman Aitchison: Mr. Schreiber, if you are only going to take 45 minutes, you will have to speed it up.

The Witness: I am perfectly willing to cut it as short as possible.

Chairman Aitchison: Proceed.

The Witness: Page 13 is entirely drawn from the preceding 12 pages. It shows the changes for the various parts of the United States and the percentage that each district is of the United States. In that connection I might say it minimizes the changes inasmuch as if I used each individual district, the amount of production, say, in 1929 compared with 1939, you would get a very large figure, in a number of instances as high as 30, 40 or 50 per cent, but the amount of manufacture in that district might be very small. Here it would show as a very small change since it is expressed in per cents of the United States.

Pages 14, 15 and 16 trace for each state and state groups the percentage changes from 1930 to 1940 in population and

from 1929 to 1939 in value of manufactured products, whole-
[fol. 2403] sale sales and retail sales. The footnote on page 16 explains how the index columns E, I, M and O are derived. In order to take account of the national change which might be due entirely to changes in price levels rather than quantity, it was necessary to make some adjustment for easy comparison. That is accomplished here by using the United States change as 100 per cent and then dividing the changes for each of the individual states or state groups by the percentage change for the United States. In other words, instead of having compared Maine which showed that the 1939 was 82 per cent of the amount for 1929 with the 80.7 relationship for the United States, the United States is reduced to a 100 per cent basis and then the others are in proportion thereto.

Mr. McCollester: May I ask one question?

Chairman Aitchison: Mr. McCollester.

Mr. McCollester: On page No. 14, in the right hand column, the heading appears to be "Per cent of 1930". Does that mean "1929", since the districts seem to be comparing 1939 with 1929?

The Witness: It should be 1929, yes, sir. The population data is for 1930 and 1940 and all of the other data is for 1929 and 1939. Thank you for calling my attention to that, Mr. McCollester. The same error occurs on page 15 in the last column, for the first half, the top half of the page but not for the second half.

[fol. 2404] Mr. Commissioner Splawn, this next portion of the exhibit I think takes up what you had in mind, a breakdown as between the main commodities and other commodities, commodities of a class rate nature. On pages 13 to 32, inclusive, I think it is, there is shown for the individual railroad districts and regions——

Mr. Porter: Page 17.

The Witness: Yes.

Mr. Porter: I think you misspoke.

The Witness: Pages 17 to 32 show for the United States as a whole and for the individual railroad districts and regions the tonnage originated for the three years 1928, 1929 and 1930, compared with like data for 1938, 1939 and 1940, giving us a ten-year spread. As stated before, in appendix 2 of the proposed traffic study order of this proceeding, there were listed certain commodities which were to be given a different type of analysis in the traffic

study than were those commodities which were considered as carried on class rates, or else influenced or carried in part on class rates or influenced by the class rate structure. I show here all of the items carried in the manufactures and miscellaneous sub-totals as they are carried in the commodity statistics in the standard publications of the Interstate Commerce Commission. I show in addition other manufactured articles, breaking them up as between those which were and those which were not included in the [fol. 2405] appendix 2 list. Third, or last, I show other products of such a nature that they are influenced by the class rate structure, and that were not included in appendix 2. Then on page 20 for the first group which happens to be the United States, Eastern District and Southern Region, I show a summation of those. Under the caption in the left hand margin, "G", I show all of the items, a summation of the various groups which roughly gives the total manufactures and under "H" a summation for all commodities not appearing in appendix 2.

In that connection I would like to say that I consider the variations here for the individual commodities as probably of more moment than the changes for groups as a whole. First, with respect to a number of commodities, weight is not a measure of the general importance of the commodities, and here weight is the factor, the main factor. Second, a number of commodities move partly on class rates and partly on other rates. In some parts of the country they might move on one and in other parts of the country on another.

Pages 33 to 36 are general statistics, commodity statistics. I do not believe they require any explanation except to call your attention to my second list there where I use a total for all traffic excluding iron ore and coal. The idea in excluding iron ore and coal was not because those items were not entitled to just as much consideration as others, [fol. 2406] but only because there is a wide variation as between carriers in the way in which they report traffic delivered to or received from docks as regards whether they are reported as traffic originated or traffic received from connecting carriers and vice versa as regards the terminated. Pages 37 to the end of the exhibit are set up corresponding to that I used for railroad districts, dividing the traffic of the country as between main bulk commodities and commodities influenced by the class rate structure.

In this connection I might state that pages 37 to 52 inclusive deal with originated tonnage and pages 53 on deal with terminated tonnage.

By Chairman Aitchison:

Q. Please refer to page 33, Mr. Schreiber.

A. 33?

Q. Yes.

A. All right.

Q. The first section is tons originated and the second section is tons terminated, and then you have "Total Terminal Tons", which is the aggregate of the two. What significance does that have?

A. Mr. Chairman, my notion of traffic density is, when we are considering traffic density, that we ought to consider not only the ton miles per mile of road, but also we should consider the terminal tons per mile of road. I think that should have just as much weight as the ton miles per mile.

[fol. 2407] Q. Frankly, I never heard of the term "Terminal Tons". I never heard the term used before. When did it get into the parlance?

A. I was under the impression that Dr. Edwards had used it.

Q. Perhaps he did. What is it, anyway?

A. Terminal tons——

Q. It means one ton twice, does it not?

A. The terminal ton is simply a ton originated or terminated and both originated and terminated, it is two terminal tons.

Q. In other words, it is simply the sum of the originated plus the terminated?

Com. Alldredge: One ton carried, then, might become two tons when it is terminated?

The Witness: When you are dealing with the United States, you presumably would have it counted twice as both originated and terminated. That might not apply to the separate districts, however. If it originated in one district and terminated in another, it would be counted as an originated ton in the one and as a terminated ton in the other.

Chairman Aitchison: You mean then you do not attach any significance to it as related to the districts?

The Witness: Yes, I do.

Chairman Aitchison: Why?

The Witness: In other words, it is a measure of traffic density in the same nature as ton miles per mile of road [fol. 2408] are. Does that answer your question, Mr. Commissioner?

Chairman Aitchison: I presume it does, but it does not mean much to me.

Mr. Porter: I would like to ask you this question, Mr. Schreiber.

By Mr. Porter:

Q. It represents, does it not, the terminal handling either by originating or terminating and then by both, of the tons of traffic of these several classifications?

A. Yes.

Q. Or descriptions?

A. Yes.

Q. In other words, if you have two terminal tons, as you call them, it really means two terminal handlings of the one ton of freight?

A. It does, yes, sir.

Q. Just as the ton miles of transportation per miles of line represent something with respect to the amount of service performed by the railroads, these terminal handlings likewise reflect service performed by the railroads that is not reflected in the ordinary traffic density showing?

A. That is correct, Mr. Porter. Perhaps I might use an illustration of what I had in mind. Take Wyoming where there is probably little traffic originated or terminated, but there is a heavy ton mileage.

[fol. 2409] Mr. Hollopeter: May I ask one question right there?

The Witness: Pardon me, Mr. Hollopeter. Just one second and I will be through.

Chairman Aitchison: Take Duluth, where they get double the amount that flows over the docks, both ways.

The Witness: I am afraid, Mr. Chairman, that I did not get your question.

Chairman Aitchison: I say, take Duluth, for instance, where you have the originated and terminated and originated again all in Minnesota, where the ore flows out. That is three.

The Witness: You would have that if you considered the lake lines as well as the railroads. So far as your move-

ment of iron ore is concerned, you have your iron ore originated primarily in the State of Minnesota.

Chairman Aitchison: And terminated?

The Witness: No. Only a portion of it is terminated in Minnesota. The Duluth & Iron Range delivers its coal at docks in Minnesota. The Great Northern delivers its—I mean, iron ore. The Great Northern delivers its iron ore at docks in Superior. Now, as a matter of fact, the Great Northern, if I recall correctly——

Chairman Aitchison: I am trying to get this simply. I am not fencing with you.

The Witness: I understand.

[fol. 2410] By Chairman Aitchison:

Q. For example, iron ore that moves over the Duluth, Missabe & Northern, terminates in Duluth, does it not?

A. That delivers its iron ore in Duluth.

Q. All right. It originated out at Hibbing.

A. Yes.

Q. That is one.

A. Yes.

Q. It terminates in Duluth. That is two.

A. Yes.

Q. Then if it goes out on a lake carrier, that is three.

A. It would not appear here, though, any data with relation to lake carriers.

Q. Suppose it was bunker coal of a common carrier.

A. No. It would not appear. Data with respect to lake transportation is not included in here.

Mr. McCollester: Would it be terminated traffic even for the rail lines?

The Witness: The point I was trying to bring out before is that the carriers are very inconsistent. In spite of the fact that a large portion of the traffic, after it is moved over the lakes, never moves beyond the lake port, nevertheless it is reported by the Great Northern, I think, not as tonnage terminated at Superior, but as tonnage delivered to connecting carriers. As a result, that is the reason why [fol. 2411] you have an unbalanced total for tonnage originated and tonnage terminated for the country for individual commodities, that and other considerations of a like nature.

Chairman Aitchison: Tonnage originated or terminated in Canada throws it out of balance too.

The Witness: Yes. There are other considerations beyond this dock tonnage, but this dock tonnage is the big item.

By Mr. Hollopeter:

Q. What accounts for the difference between your tons carried and the terminal tons, Mr. Schreiber? You have quite a difference there.

A. Well, presumably if you had all of your traffic perfectly reported for the United States, the terminal tons would be just double the number of tons carried.

Mr. McCollester: Not if you take into account traffic going to Canada or Mexico.

The Witness: I think the portion of that is so small you can forget that.

Mr. Hollopeter: Well, would your tons——

The Witness: I was speaking as a practical matter, not theoretically.

By Mr. Hollopeter:

Q. Would your tons carried include both the tons originated and tons terminated or not?

A. They cover the same traffic, Mr. Hollopeter. Take a ton of iron ore, for instance. It is reported. I will change that. Take a ton of grain. It is reported as a ton originated. [fol. 2412] It is reported also as a ton terminated because it has some terminal, we will assume, in the United States. So we have two terminal tons for that, or two terminal handlings, and it would also be included as a single ton in the reports of the total tons carried.

Q. What my question was directed to was this: Taking the figures on your exhibit, page 33, if you will look at them, the total tons carried is not the sum of the two figures of tons originated and tons terminated.

A. It practically never could be. There is a consideration in there which I——

Q. Do the upper figures include some non-revenue tons or do they not?

A. No, sir. They all relate to revenue tonnage. There is a consideration in there, when you get down to the various districts, and for that matter it would go all the way through,

and that is this: Tonnage might be reported twice, the same ton might possibly be reported twice as originated and terminated by several railroads.

Chairman Aitchison: It seems to work the other way.

The Witness: Only if they were reported correctly, that would not be the case.

Chairman Aitchison: You seem to have about two hundred billion, two hundred million tons more than originated or terminated.

[fol. 2413] Mr. McCollester: How about rail-water traffic? It would be originated for a railroad, and if these are only railroad statistics, it would not appear as terminated anywhere, would it?

Chairman Aitchison: At the dock.

The Witness: Yes.

Mr. McCollester: No, because it is delivered to another carrier.

The Witness: The explanation of why the total revenue tons carried is not approximately one-half of the total terminal tons carried is that the total tons carried are reported by the individual carriers and this is a summation of the amounts carried by the individual carriers, whereas presumably in the terminal portion an intermediate carrier would not have any terminal handlings at all, but it would report, if an intermediate or bridge carrier carried the traffic—in other words, if a railroad carried traffic as a bridge carrier, it would not be reported as either tonnage originated or terminated, but it would be reported as tonnage carried. I am afraid I was a little dense. Thank you for calling that to my attention, Dr. Edwards.

Mr. Porter: Is your question answered, Mr. McCollester?

Mr. McCollester: Yes.

The Witness: Now, I want to call your attention to the fact that the mileages used in connection with pages 37 on, [fol. 2414] do not exactly correspond to the tonnage data. I was unable to find any statement of the actual mileage within the individual states. In lieu of getting the actual mileage of class 1 carriers which is what the tonnage represents, I had to use something of a substitute therefor, and the only statement of mileages by states that was fairly complete for all states was the one carried in the Statistics of Railways in the United States, Table 3 on page 6 referring to the 1939 report. I used there the sum of the mileage

owned by class 1 carriers, by class 2 carriers and class 3 carriers plus the mileage owned by non-operating companies. It was impossible to distribute the mileage owned by non-operating companies between classes 2 and 3, so I took the summation of all four and it produced a slight distortion. I think there were 233,000 miles as I have used them for the entire country, 9,000 miles of which represent class 2 railroads and a little over 3,000 miles class 3.

Chairman Aitchison: Of course, it is too late to correct that here, but I think an explanation of that sort ought to have been in the exhibit rather than orally. Don't you think so, Mr. Schreiber?

The Witness: It would have been preferable, yes. I agree with you.

Chairman Aitchison: It would help very much if that could be done by others who are preparing exhibits. Let the [fol. 2415] exhibits be self-explanatory.

The Witness: That is all I have to offer in connection with this exhibit.

Chairman Aitchison: Is there anything further, Mr. Porter?

Mr. Porter: Nothing further on direct.

Chairman Aitchison: Do you offer your exhibit?

Mr. Porter: Yes. If you please.

Chairman Aitchison: Is there any objection to the receipt of Exhibit 119 in evidence? (No response.) There being no objection, it is received.

(Exhibit 119, Witness Schreiber, received in evidence.)

Chairman Aitchison: Is there any cross-examination? (No response.) Apparently not. You may stand aside.

(Witness Excused.)

Chairman Aitchison: Mr. McCarthy I believe was next You may proceed, Mr. Davidson.

Mr. Davidson: Will you be sworn, please, Mr. McCarty.

Chairman Aitchison: Raise your right hand.